



City of Duluth

Meeting Agenda

Planning Commission.

Tuesday, February 8, 2022

5:00 PM

CALL TO ORDER AND ROLL CALL

APPROVAL OF PLANNING COMMISSION MINUTES

PUBLIC COMMENT ON ITEMS NOT ON AGENDA

[PL 22-0111](#) Minutes 1/11/22

Attachments: [01-11-2022 PC Minutes \(not approved yet\)](#)

CONSENT AGENDA

[PL 22-001](#) Interim Use Permit for Vacation Dwelling Unit in Form District at 1218 1/2 E 4th Street Unit 1 by Maxim & Father, LLC

Attachments: [PL 22-001 Staff Report and Attachments](#)

[PL 22-002](#) Interim Use Permit for Vacation Dwelling Unit in Form District at 1218 1/2 E 4th Street Unit 2 by Maxim & Father, LLC

Attachments: [PL 22-002 Staff Report and Attachment](#)

[PL 22-003](#) Interim Use Permit for Vacation Dwelling Unit in Form District at 1218 1/2 E 4th Street Unit 3 by Maxim & Father, LLC

Attachments: [PL22-003 Staff Report and Attachment](#)

[PL 22-004](#) Interim Use Permit for Vacation Dwelling Unit in Form District at 1218 1/2 E 4th Street Carriage House by Maxim & Father, LLC

Attachments: [PL 22-004 Staff Report and Attachments](#)

[PL 22-007](#) Interim Use Permit for Vacation Dwelling Unit at 8502 Bessemer Street by Mark and Jamie Sams

Attachments: [PL 22-007 Staff report and attachments](#)

PUBLIC HEARINGS

[PL 21-137](#) Special Use Permit for Self-Service Storage Facility at 5710 Grand Avenue

Attachments: [PL21-137 Staff Report - final with attachments and additional comments rcvd as](#)

[PL 21-210](#) UDC Text Amendment to Section 50-18.2, Airport Overlay District, by City of Duluth

Attachments: [PL 21-210 Staff Memo and Attachments Revised](#)

[PL 22-010](#) UDC Text Amendments Related to New Land Uses; 50-19.8 Permitted Use Table; and 50-41 Definitions

Attachments: [PL 22-010 Feb 8 2022 PC memo text change](#)

OLD BUSINESS

[PL 21-096](#) Minor Subdivision at Glen Place and W Michigan Street by Aaron Schweiger

COMMUNICATIONS

Land Use Supervisor Report

Historic Preservation Commission Report

Joint Airport Zoning Board Report

Duluth Midway Joint Powers Zoning Board Report

RECESS TO ANNUAL MEETING

Presentation: Central Entrance Corridor Plan

Election of Officers

Zenith Awards

City of Duluth Planning Commission

January 11, 2022
Meeting Minutes

Due to the COVID-19 emergency, many planning commission members participated through video conference from home. The meeting was held as a Special Meeting pursuant to Minnesota Statute 13D.021 in response to the Covid-19 emergency. Public comment was taken at planning@duluthmn.gov prior to and during the meeting, and via verbal comment through public attendance in the WebEx video conference during the meeting.

Call to Order

President Margie Nelson called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, January 11th, 2022.

Roll Call

Attendance: (* Via WebEx video conferencing – all votes conducted via roll call)

Members Present: Jason Crawford*, Gary Eckenberg*, Jason Hollinday*, Margie Nelson*, Andrea Wedul*, Sarah Wisdorf*, and Zandra Zwiebel*

Members Absent: Eddie Ranum, and Michael Schraepfer

Staff Present: Adam Fulton*, Robert Asleson*, John Kelley*, Chris Lee*, Kyle Deming*, Steven Robertson*, and Cindy Stafford*

Approval of Planning Commission Minutes -

Planning Commission Meeting – December 14, 2021

MOTION/Second: Zwiebel/Eckenberg approved

VOTE: (7-0)

Public Comment on Items Not on Agenda

None

Consent Agenda

PL 21-192 Interim Use Permit for a Short Term Rental in a Form District at 15 N 18th Avenue W Unit 1 by Betsy Norman

PL 21-193 Interim Use Permit for a Short Term Rental in a Form District at 15 N 18th Avenue W Unit 2 by Betsy Norman

PL 21-195 Concurrent Use Permit for a Canopy in the Right of Way of W Michigan Street at the Depot, 506 W Michigan Street, by St Louis County Property Management

PL 21-200 Concurrent Use Permit for a Stairway in the Right of Way of 28th Avenue W at 2803 W Superior Street by WB Ibiza LLC

PL 21-205 Minor Subdivision at 3925 Maxwell Avenue by Gloria Carlson

PL 21-206 Interim Use Permit for a Vacation Dwelling Unit at 1423 London Road by Mathew Jennissen

PL 21-209 R-P Zoning Amendment for Ramsey Village by Talle and Associates

Commissioners: Zandra Zwiebel referred to item PL 21-205. Can staff describe how the property will be used? John Kelley referred to the principle dwelling and an accessory dwelling. He thinks they will be rented out as long term rental properties. The owner does not have to be a resident. Andrea Wedul also referred to item PL 21-205. She appreciates the wetland delineation, but is it just for the boundary? Per Kelly, the applicant is working with a consultant to mitigate any impacts that might be created by the driveway. Wedul affirmed it won't affect tonight's decision. PL 21-192 and PL 21-193: Commissioner Wedul asked if the units have separate entries. Chris Lee wasn't sure about the entry way, but property records confirm it is a duplex. PL 21-205: Commissioner Gary Eckenberg asked if this pertains to a tiny house. Kelly stated there was no discussion about tiny homes. PL 21-195: Commissioner Sarah Wisdorf noted the heritage preservation commission (hpc) is looking and the design and scope of the remodeling project, which isn't tied to the Concurrent Use Permit. She noted the hpc tabled their design approval for more information from the State Historic Preservation Office (SHPO). PL 21-209: Commissioner Zwiebel affirmed they received public comment about parking concerns.

Public: No speakers.

MOTION/Second: Zwiebel/Wedul approved consent agenda items as per staff recommendations

VOTE: (7-0)

Public Hearings

~~PL 21-137 Special Use Permit for a Self-Service Storage Facility at 5710 Grand Avenue~~

Staff: Deputy Director Adam Fulton noted the applicant has withdrawn this item until next month. Staff will carry over public comments received until next month. Chair Nelson asked if a motion was needed to Table. City Attorney Robert Asleson stated the Chair has the power to remove the item without a motion. Chair Nelson removed item PL 21-137.

PL 21-188 Final Plat for Skyline View Estates, Northwest of Skyline Parkway and Highway 2 by Cynthia Crawford

Staff: Kyle Deming introduced the applicant's proposal for a final plat of Skyline View Estates to subdivide 67.71 acres into 13 lots along a public street. The planning commission saw the preliminary plat two months ago. Approval was conditioned on the items listed in the staff report. Section 3 of the staff report includes a tree inventory and replacement plan, which must be included in the development agreement. Also, the location of the driveway in Lot 5 adds added protection for wetlands with the addition of fencing, which also adds extra protection. Staff recommends approval with the conditions listed in the staff report.

Commissioners: Commissioner Wedul asked about the wetland delineation done in 2005. Is it still valid? Per Deming, the delineation was refreshed/revised in 2020, so it is currently valid. Commissioner Zwiebel asked if the road will come in from Skyline Parkway and then will end in a turnabout circle. Kyle affirmed. He stated there is a possibility of a future connection to the NE corner, should it be needed. Wedul asked about the cul de sac. Did fire review and approve? Per Deming, Engineering and Fire are aware, and diameter is sized appropriately.

Applicant: Rick and Cindy Crawford addressed the commission and noted they have been working with the city for 15 years on this, and it is a wonderful project. They thanked staff and the planning commission. David Bolf of Northland Consulting Engineers reiterated the cul de sac is 120' across and meets engineering and fire codes.

Public: No speakers.

MOTION/Second: Wedul/Crawford approved as per staff recommendations

VOTE: (7-0)

PL 21-210 UDC Text Amendment to Section 50-18.2, Airport Overlay District, by the City of Duluth

Staff: Steven Robertson noted this item is still being evaluated and new language is need. The code has been unchanged since 2010. They need to include Sky Harbor Airport in the new language. Robertson referred to the seven bullet points found on his staff memo. He welcomes discussion from the planning commission, but would like to table the item.

Commissioners: Wedul asked if the airport authority has reviewed and commented, and has there been any Cirrus feedback? Per Robertson, the new language has been blessed by the jurisdiction. They have performed their due diligence. Commissioner Eckenberg noted city attorney Steve Hanke isn't present tonight. What is the purpose of having public comment tonight? He also noted the approval of the Director Office of Aeronautics on the new zoning regulations found on page 152 of the staff report. Robertson noted a legal notice was posted in the Duluth News Tribune, and staff would like to have multiple opportunities for public input.

Public: No speakers, but will remain open, and continued until the next meeting.

MOTION/Second: Wisdorf/Holliday Table until next meeting

VOTE: (7-0)

Old Business

PL 21-096 Minor Subdivision at Glen Place and W Michigan Street by Aaron Schweiger

Item to Remain on the Table through the end of November for more Plat Research

Communications

Land Use Supervisor (LUS) Report – Deputy Director Fulton gave an overview. He noted the Kenwood Plaza Application has been withdrawn. Restoration will be ongoing. Lester Park Golf Course: the city council acted to appoint DEDA to go through a Request for Proposal (RFP) process. The city is pleased to have hired a new transportation planner, James Gittemeier. Commission meetings will continue on Web-ex until further notice. The planning commission annual meeting is coming up in February, and will be held prior to their regular meeting, and will involve the election of new officers.

Heritage Preservation Commission – Commissioner Wisdorf noted they met yesterday, and discussed the downtown district design guidelines, which will hopefully to the pc next month. Duluth is hosting the State Historic Preservation Conference, and it is still up in the air if it will be conducted in person, or virtually. They are waiting to hear back from SHPO on Depot repairs.

Joint Airport Zoning Board – Commissioner Eckenberg noted they are in a holding pattern until next month.

Duluth Midway Joint Powers Zoning Board – No update.

Adjournment

Meeting adjourned at 5:57 p.m.

Respectfully,

Adam Fulton – Deputy Director
Planning & Economic Development



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

File Number	PL 22-001	Contact	Chris Lee, clee@duluthmn.gov	
Type	Interim Use Permit – Vacation Dwelling Unit	Planning Commission Date	February 8, 2022	
Deadline for Action	Application Date	January 4, 2022	60 Days	March 5, 2022
	Date Extension Letter Mailed	January 10, 2022	120 Days	May 4, 2022
Location of Subject	1218 E 4 th Street, Unit 1			
Applicant	Maxim & Father LLC	Contact	Mike Maxim	
Agent	N/A	Contact	N/A	
Legal Description	PID # 010-1460-04100			
Site Visit Date	January 10, 2022	Sign Notice Date	January 25, 2022	
Neighbor Letter Date	January 25, 2022	Number of Letters Sent	70	

Proposal

Applicant proposes use of one unit in an existing 2,700 square foot triplex as a vacation dwelling unit. The permit would allow for a 314 square foot, two-bedroom unit with a maximum of 5 occupants.

Vacation dwelling units located in the F-6 Form District are exempt from minimum night stays and parking, and there is no cap on number of permits issued.

Recommended Action: Staff recommends that Planning Commission approve with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-6	Single-family Residential	Neighborhood Mixed Use
North	F-6	Single-family Residential	Neighborhood Mixed Use
South	R-2	Single-family Residential	Neighborhood Mixed Use
East	F-6	Single-family Residential	Neighborhood Mixed Use
West	F-6	Single-family Residential	Neighborhood Mixed Use

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in the F-6 zone district.

UDC Sec. 50-37.10.E . . . the Council shall only approve an interim use permit, or approve it with conditions, if it determines that:

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location . . .;
2. The applicant agrees to sign a development agreement with the city.
3. There is a city-wide cap on vacation dwelling units or accessory vacation dwelling units; permits issued for vacation dwelling units or accessory vacation dwelling units in any form district shall not be counted against the maximum number of permits that



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may be issued, 4. Except for properties within the Higher Education Overlay District as identified in 50-18.5, the minimum rental period and off-street parking requirements of 50-20.3.U and 50-20.5.M shall not apply for vacation dwelling units or accessory vacation dwelling units in form districts.

Comprehensive Plan Governing Principle and/or Policies and Current History (if applicable):

Governing Principle #8 - Encourage mix of activities, uses, and densities.

- Econ. Dev. Policy #3 - Build on Existing Economic Strengths & Competitive Advantages
S9: Encourage expansion of the city's tourism economy through efforts to expand in areas of current activity, such as in Canal Park, but also through marketing and investment in destination neighborhoods and iconic tourism experiences unique to Duluth.

Applicant is proposing to provide another type of lodging product for visitors to the City of Duluth and surrounding area.

Future Land Use – Neighborhood Mixed Use: A transitional use between more intensive commercial uses and purely residential neighborhoods. Includes conversions of houses to office or live-work spaces. May include limited commercial-only space oriented to neighborhood or specialty retail markets.

History: 1218 East 4th Street - The 2,700 square foot triplex built in 1905.

1218 ½ East 4th Street – The 527 square foot single-family dwelling was built in 1905.

These properties recieved a variance from setbacks to reduce the nonconformity status for a boundary line adjustment.

Review and Discussion Items:

- Applicant's property is located at 1218 E 4th St, Unit 1. The proposed vacation dwelling is a 2-bedroom unit within a triplex. The unit would allow for a maximum of 5 guests. Unit 1 is located on the ground level with a walkout entry.
- Vacation dwelling units located in Form districts are exempt from number of interim use permits issued, minimum night stays and parking requirements.
- The applicant has noted on their site plan that there will be one off-street parking space located off the alley for this unit. Parking is not required for Short Term Rentals located in a Form District.
- There will not be any campers or trailers parked on the property.
- The site does not have any outdoor amenities. The applicant has a privacy fence and pine trees to serve as a buffer.
- Permit holders must designate a managing agent or local contact who resides within 25 miles of the city and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the city. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. The applicant has listed themselves to serve as the managing agent, which meets the criteria.
- A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.



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8) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").

9) No comments from citizens, City staff, or any other entity were received regarding the application.

10) The permit will expire 6 years from the approval date. The permit will lapse if no activity takes place within 1 year of approval.

Staff Recommendation:

Based on the above findings, Staff recommends that Planning Commission approve the interim use permit subject to the following:

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
- 2) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit.



PL 22-001
thru -004
IUP 1218 E
4th St

Legend

- Gas Main
- Water Main
- Hydrant

Sanitary Sewer Mains

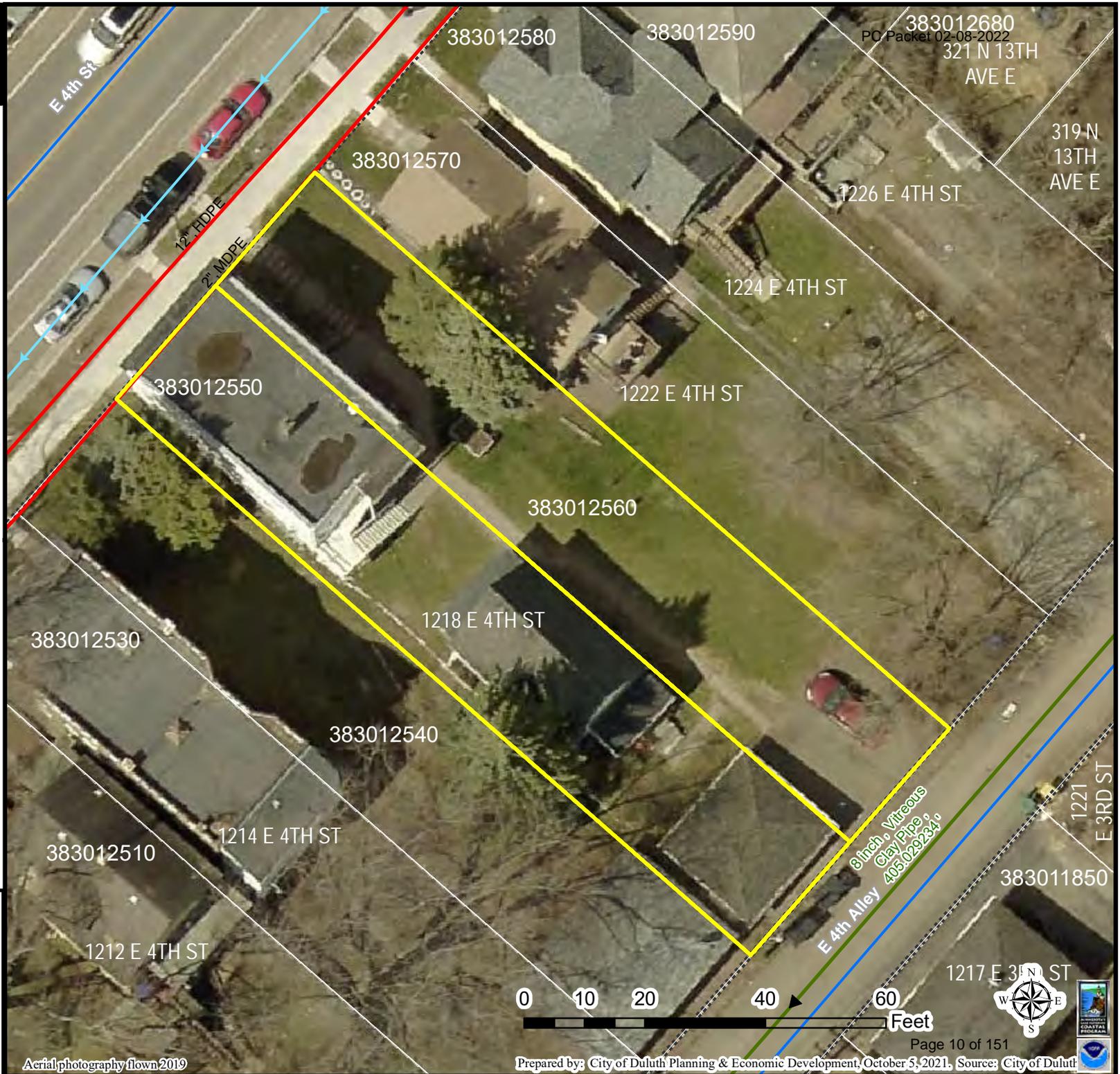
- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station

Storm Sewer Mains

- Storm Sewer Pipe
- Storm Sewer Catch Basin

Easement Type

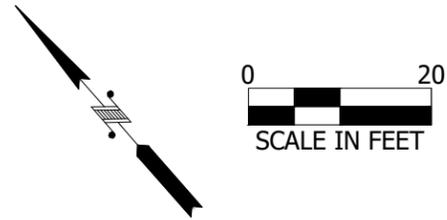
- Utility Easement
- Other Easement



The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

Aerial photography flown 2019





PARENT LEGAL DESCRIPTION PER DOC. NO. 1195970

Lot 9, Block 83, Portland Division of Duluth, St. Louis County, Minnesota.
 Lot 10, Block 83, Portland Division of Duluth, St. Louis County, Minnesota.

LEGAL DESCRIPTION FOR PARCEL A

That part of Lots 9 and 10, Block 83, PORTLAND DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Beginning at the Northwestern corner of said Lot 9; thence on an assumed bearing of South 48 degrees 23 minutes 07 seconds East, along the Southwesterly line of said Lot 9 for a distance of 56.90 feet; thence North 41 degrees 36 minutes 41 seconds East, along a line parallel with the Northerly line of said Lots 9 and 10 for a distance of 25.98 feet; thence North 48 degrees 23 minutes 06 seconds West 56.90 feet to said Northerly line of said Lots 9 and 10; thence South 41 degrees 36 minutes 41 seconds East, along said Northerly line 25.98 feet to the point of beginning.

Said parcel contains 1,478 Sq. Feet or 0.03 Acres.

LEGAL DESCRIPTION FOR PARCEL B

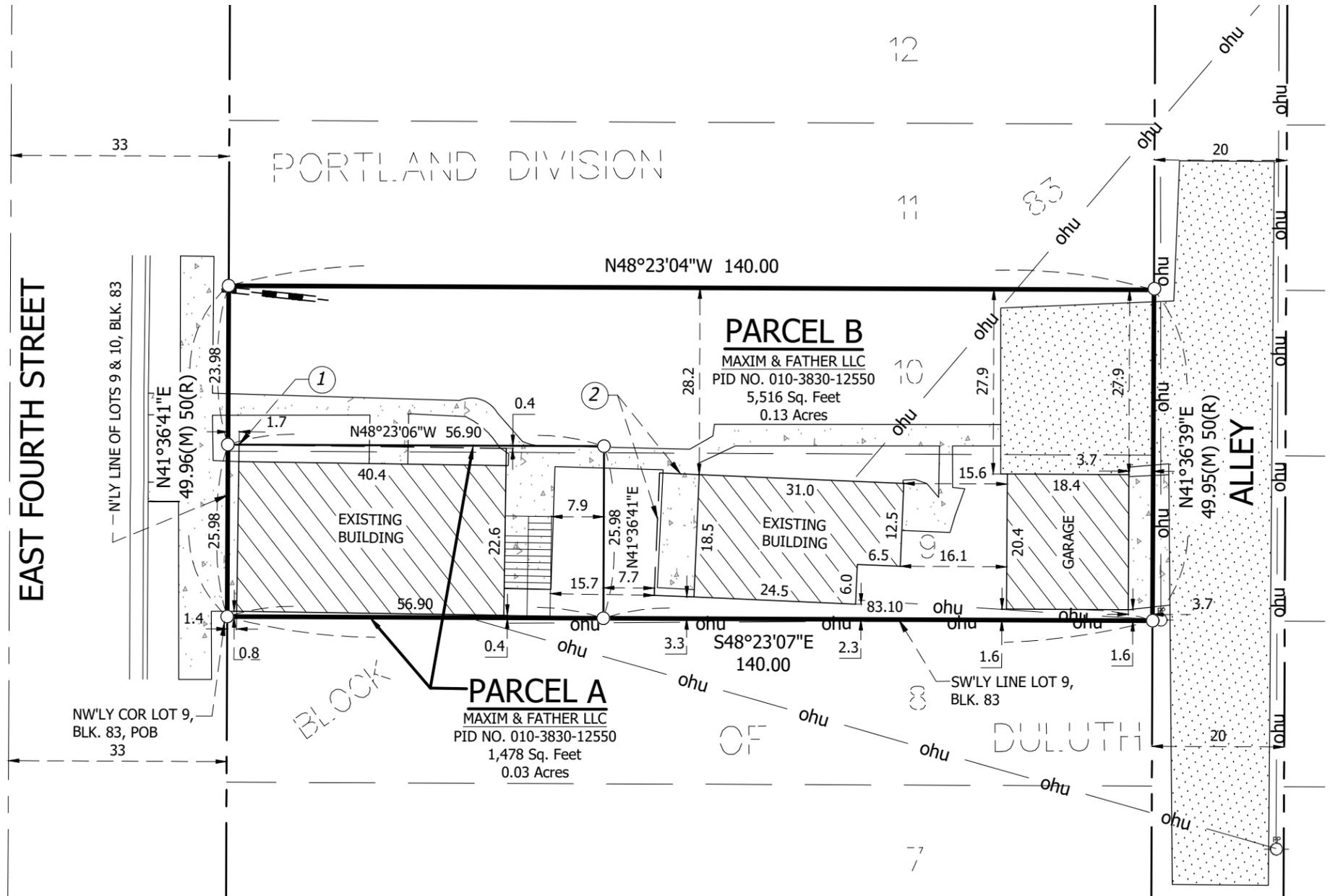
Lots 9 and 10, Block 83, PORTLAND DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, Except the following described parcel:

Beginning at the Northwestern corner of said Lot 9; thence on an assumed bearing of South 48 degrees 23 minutes 07 seconds East, along the Southwesterly line of said Lot 9 for a distance of 56.90 feet; thence North 41 degrees 36 minutes 41 seconds East, along a line parallel with the Northerly line of said Lots 9 and 10 for a distance of 25.98 feet; thence North 48 degrees 23 minutes 06 seconds West 56.90 feet to said Northerly line of said Lots 9 and 10; thence South 41 degrees 36 minutes 41 seconds East, along said Northerly line 25.98 feet to the point of beginning.

Said parcel contains 5,516 Sq. Feet or 0.13 Acres.

LEGEND

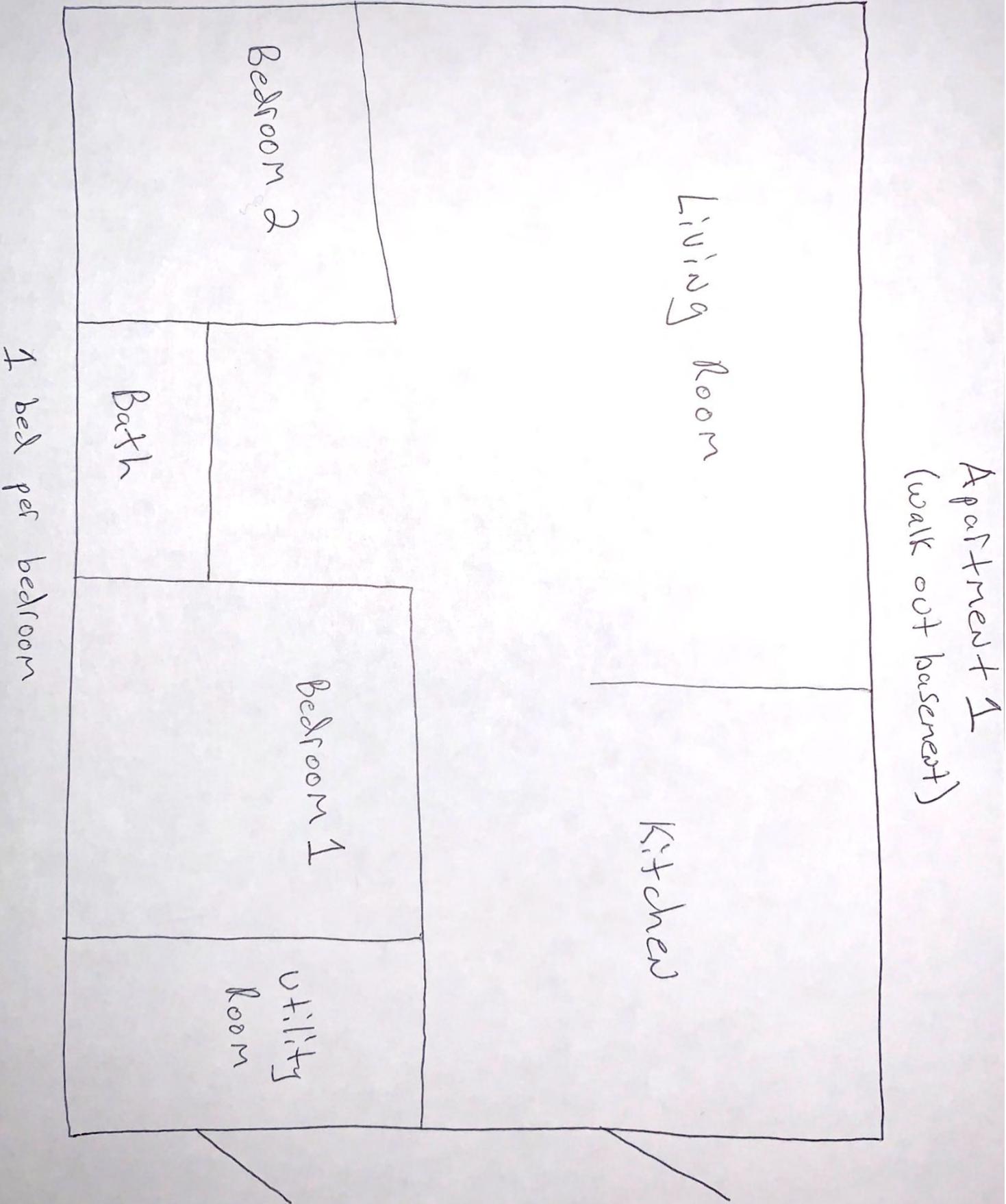
	CONCRETE SURFACE	(M)-FIELD MEASURED DIMENSION	# REFER TO SURVEYOR'S NOTES
	BITUMINOUS SURFACE	(R)-RECORD DIMENSION	○ SET CAPPED REBAR RLS. NO. 49505
	EXISTING BUILDINGS	POB-POINT OF BEGINNING	○ UTILITY POLE
	RETAINING WALL		OHU OVERHEAD UTILITIES
	CENTER LINE		ROW RIGHT OF WAY LINE
	BOUNDARY LINE AS SURVEYED		EXPL EXISTING PLAT LINE
	PROPOSED PARCEL LINE		CCG CONCRETE CURB & GUTTER



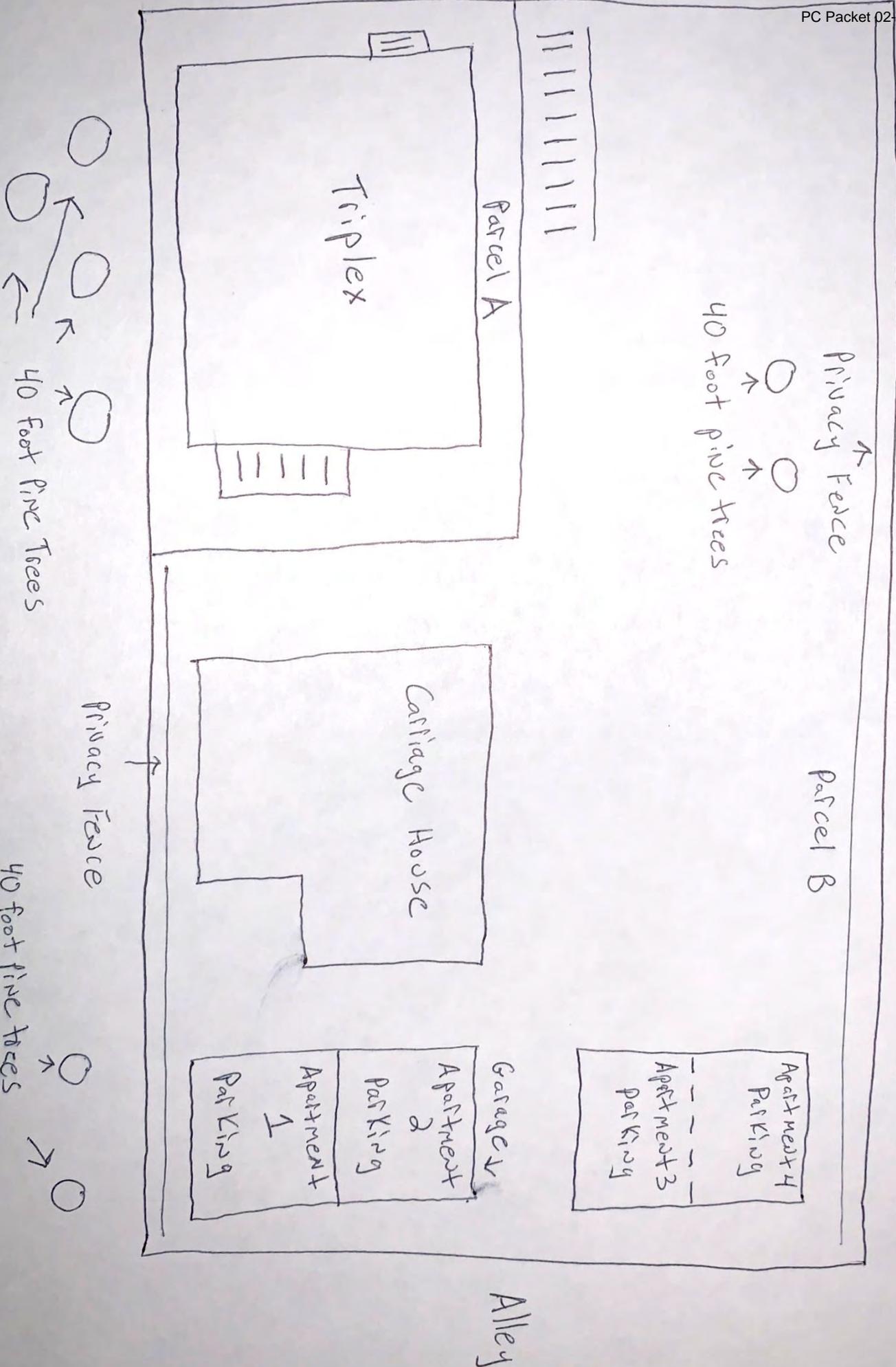
SURVEYOR'S NOTES

1. BUILDING OVERHANG LOCATED ON NE'LY LINE OF PROPOSED PARCEL A.
2. ROOF OVERHANG.
3. THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
4. BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
5. BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY. SEE ARCHITECTURAL PLAN FOR BUILDING FOUNDATION DIMENSIONS.

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota. David R. Evanson MN License #49505 DATE: 9-7-2021	CERTIFICATE OF SURVEY		 ALTA LAND SURVEY COMPANY PHONE: 218-727-5211 LICENSED IN MN & WI WWW.ALTLANDSURVEYDULUTH.COM
	CLIENT: MIKE MAXIM JR ADDRESS: 1218 E 4TH ST, DULUTH, MN 55805 DATE: 9-7-2021	REVISIONS: JOB NO: 21-295	



Property Layout



Vacation Dwelling Unit Worksheet

1. The minimum rental period shall be not less than two consecutive nights (does not apply to Form districts). **What will be your minimum rental period?** 1 nights

2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two. You may rent no more than four bedrooms.

How many legal bedrooms are in the dwelling?

2 per UNIT

What will be your maximum occupancy?

5 people per UNIT

3. Off-street parking shall be provided at the following rate:

- a. 1-2 bedroom unit, 1 space
- b. 3 bedroom unit, 2 spaces
- c. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
- d. Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.
- e. Form districts are not required to provide parking spaces.

How many off-street parking spaces will your unit provide? 1 per UNIT

4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street. **Will you allow motorhome or trailer parking? If so, where?** No

5. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.

6. The property owner must provide a site plan, drawn to scale, showing parking and driveways, all structures and outdoor recreational areas that guests will be allowed to use, including, but not limited to, deck/patio, barbeque grill, recreational fire, pool, hot tub, or sauna, and provide detail concerning the provision of any dense urban screen that may be required to buffer these areas from adjoining properties. Please note that this must be on 8 x 11 size paper.

7. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first. An owner of a vacation dwelling unit permitted prior to May 15, 2016, may request, and the land use supervisor may grant, an application for adjustment of an existing permit to conform to this section, as amended, for the remainder of the permit term.

8. Permit holder must keep a guest record including the name, address, phone number, and vehicle (and trailer) license plate information for all guests and must provide a report to the City upon 48 hours' notice. **Please explain how and where you will**

keep your guest record (log book, excel spreadsheet, etc):

ON a Spreadsheet

9. Permit holder must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24-hours-a-day to any complaints from neighbors or the City. The permit holder must notify the Land Use Supervisor within 10 days of a change in the managing agent or local contact's contact information.

Please provide the name and contact information for your local contact:

Michael Maxim 218 940 4540 Mikepmjr@yahoo.com

10. Permit holder must disclose in writing to their guests the following rules and regulations:

- a. The managing agent or local contact's name, address, and phone number;
- b. The maximum number of guests allowed at the property;
- c. The maximum number of vehicles, recreational vehicles, and trailers allowed at the property and where they are to be parked;
- d. Property rules related to use of exterior features of the property, such as decks, patios, grills, recreational fires, pools, hot tubs, saunas and other outdoor recreational facilities;
- e. Applicable sections of City ordinances governing noise, parks, parking and pets;

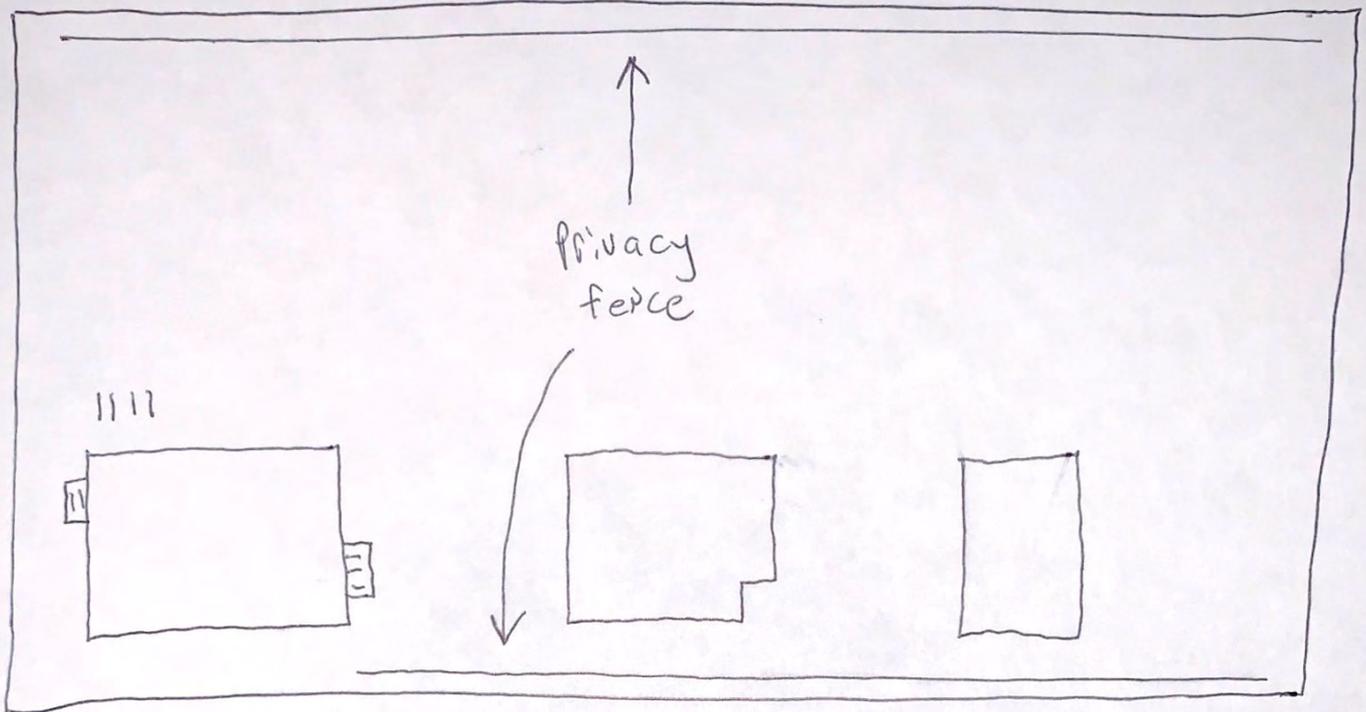
Please state where and how this information will be provided to your guests:

Through email

11. Permit holder must post their permit number on all print, poster or web advertisements. Do you agree to include the permit number on all advertisements? yes

12. Prior to rental, permit holder must provide the name, address, and phone number for the managing agent or local contact to all property owners within 100' of the property boundary; submit a copy of this letter to the Planning and Community Development office. In addition, note that permit holder must notify neighboring properties within 10 days of a change in the managing agent or local contact's contact information.

Screening Plan



We will have privacy fencing on the east & west side of the property



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 planning@duluthmn.gov

File Number	PL 22-002	Contact	Chris Lee, clee@duluthmn.gov	
Type	Interim Use Permit – Vacation Dwelling Unit	Planning Commission Date		February 8, 2022
Deadline for Action	Application Date	January 4, 2022	60 Days	March 5, 2022
	Date Extension Letter Mailed	January 10, 2022	120 Days	May 4, 2022
Location of Subject	1218 E 4 th Street, Unit 2			
Applicant	Maxim & Father LLC	Contact	Mike Maxim	
Agent	N/A	Contact	N/A	
Legal Description	PID # 010-1460-04100			
Site Visit Date	January 10, 2022	Sign Notice Date	January 25, 2022	
Neighbor Letter Date	January 25, 2022	Number of Letters Sent	70	

Proposal

Applicant proposes use of one unit in an existing 2,700 square foot triplex as a vacation dwelling unit. The permit would allow for a 314 square foot, two-bedroom unit with a maximum of 5 occupants.

Vacation dwelling units located in the F-6 Form District are exempt from minimum night stays and parking, and there is no cap on number of permits issued.

Recommended Action: Staff recommends that Planning Commission approve with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-6	Single-family Residential	Neighborhood Mixed Use
North	F-6	Single-family Residential	Neighborhood Mixed Use
South	R-2	Single-family Residential	Neighborhood Mixed Use
East	F-6	Single-family Residential	Neighborhood Mixed Use
West	F-6	Single-family Residential	Neighborhood Mixed Use

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in the F-6 zone district.

UDC Sec. 50-37.10.E . . . the Council shall only approve an interim use permit, or approve it with conditions, if it determines that:

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the



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requested use in that location; 2. The applicant agrees to sign a development agreement with the city. 3. There is a city-wide cap on vacation dwelling units or accessory vacation dwelling units; permits issued for vacation dwelling units or accessory vacation dwelling units in any form district shall not be counted against the maximum number of permits that may be issued, 4. Except for properties within the Higher Education Overlay District as identified in 50-18.5, the minimum rental period and off-street parking requirements of 50-20.3.U and 50-20.5.M shall not apply for vacation dwelling units or accessory vacation dwelling units in form districts.

Comprehensive Plan Governing Principle and/or Policies and Current History (if applicable):

Governing Principle #8 - Encourage mix of activities, uses, and densities.

- Econ. Dev. Policy #3 - Build on Existing Economic Strengths & Competitive Advantages
S9: Encourage expansion of the city's tourism economy through efforts to expand in areas of current activity, such as in Canal Park, but also through marketing and investment in destination neighborhoods and iconic tourism experiences unique to Duluth.

Applicant is proposing to provide another type of lodging product for visitors to the City of Duluth and surrounding area.

Future Land Use –Neighborhood Mixed Use: A transitional use between more intensive commercial uses and purely residential neighborhoods. Includes conversions of houses to office or live-work spaces. May include limited commercial-only space oriented to neighborhood or specialty retail markets.

History: 1218 East 4th Street - The 2,700 square foot triplex built in 1905.

1218 ½ East 4th Street – The 527 square foot single-family dwelling was built in 1905.

These properties received a variance from setbacks to reduce the nonconformity status for a boundary line adjustment.

Review and Discussion Items:

- 1) Applicant's property is located at 1218 E 4th St, Unit 2. The proposed vacation dwelling is a 2-bedroom unit within a triplex. The unit would allow for a maximum of 5 guests. Unit 2 is located on the street level with an entry on East 4th Street.
- 2) Vacation dwelling units located in Form districts are exempt from number of interim use permits issued, minimum night stays and parking requirements.
- 3) The applicant has noted on their site plan that there will be one off street parking space located off the alley for this unit. Parking is not required for Short Term Rentals located in a Form District.
- 4) There will not be any campers or trailers parked on the property.
- 5) The site does not have any outdoor amenities. The applicant has a privacy fence and pine trees to serve as a buffer.
- 6) Permit holders must designate a managing agent or local contact who resides within 25 miles of the city and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the city. Permit holder must



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802



218-730-5580



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provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. The applicant has listed themselves to serve as the managing agent, which meets the criteria.

7) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.

8) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").

9) No comments from citizens, City staff, or any other entity were received regarding the application.

10) The permit will expire 6 years from the approval date. The permit will lapse if no activity takes place within 1 year of approval.

Staff Recommendation:

Based on the above findings, Staff recommends that Planning Commission approve the interim use permit subject to the following:

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
- 2) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit.



PL 22-001
thru -004
IUP 1218 E
4th St

Legend

- Gas Main
- Water Main
- Hydrant

Sanitary Sewer Mains

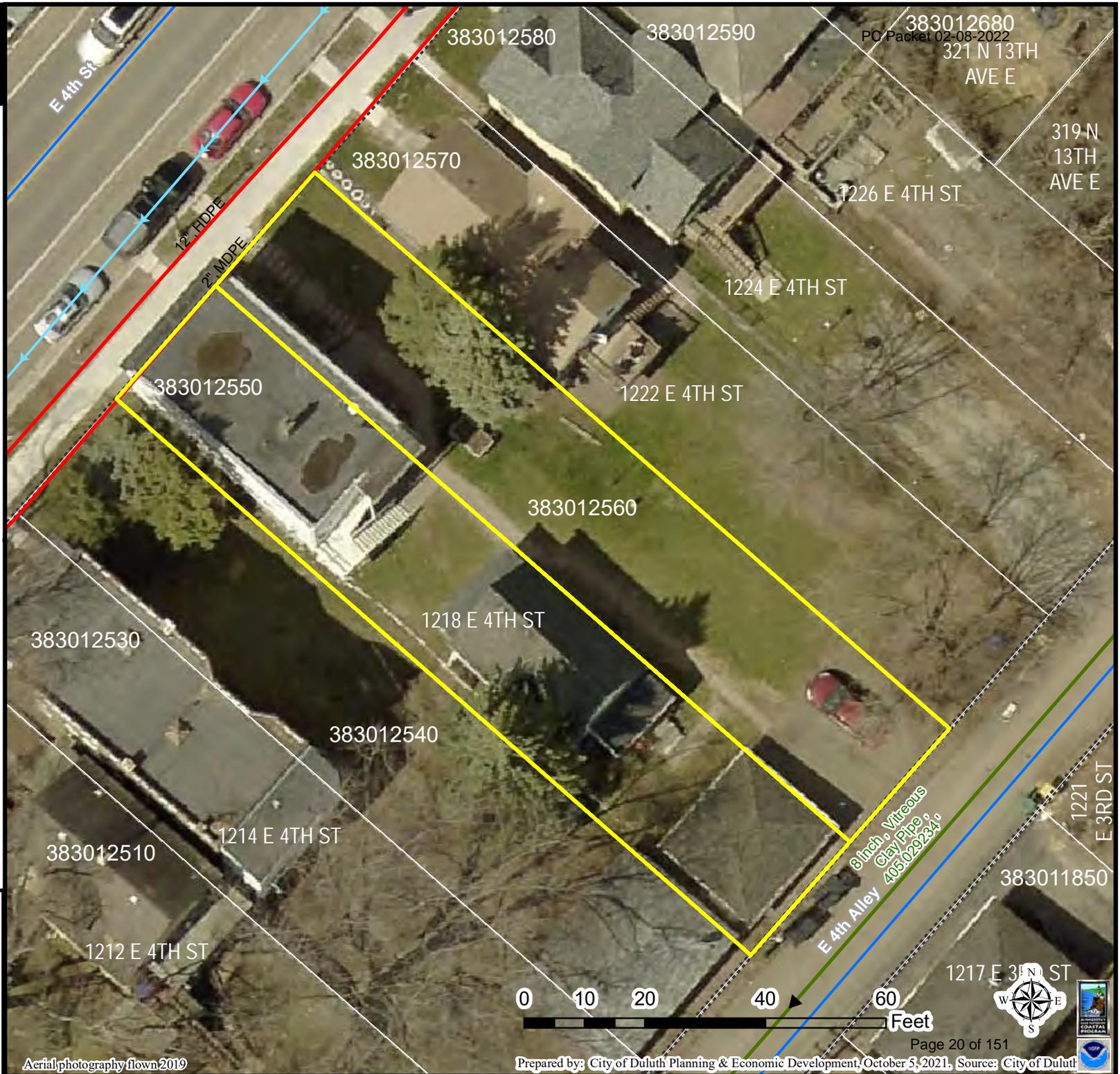
- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station

Storm Sewer Mains

- Storm Sewer Pipe
- Storm Sewer Catch Basin

Easement Type

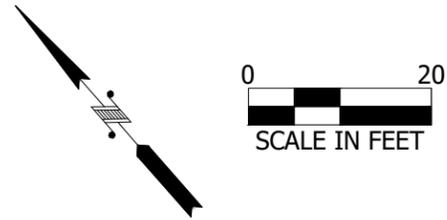
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The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

Aerial photography flown 2019





PARENT LEGAL DESCRIPTION PER DOC. NO. 1195970

Lot 9, Block 83, Portland Division of Duluth, St. Louis County, Minnesota.
 Lot 10, Block 83, Portland Division of Duluth, St. Louis County, Minnesota.

LEGAL DESCRIPTION FOR PARCEL A

That part of Lots 9 and 10, Block 83, PORTLAND DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Beginning at the Northwestern corner of said Lot 9; thence on an assumed bearing of South 48 degrees 23 minutes 07 seconds East, along the Southwesterly line of said Lot 9 for a distance of 56.90 feet; thence North 41 degrees 36 minutes 41 seconds East, along a line parallel with the Northerly line of said Lots 9 and 10 for a distance of 25.98 feet; thence North 48 degrees 23 minutes 06 seconds West 56.90 feet to said Northerly line of said Lots 9 and 10; thence South 41 degrees 36 minutes 41 seconds East, along said Northerly line 25.98 feet to the point of beginning.

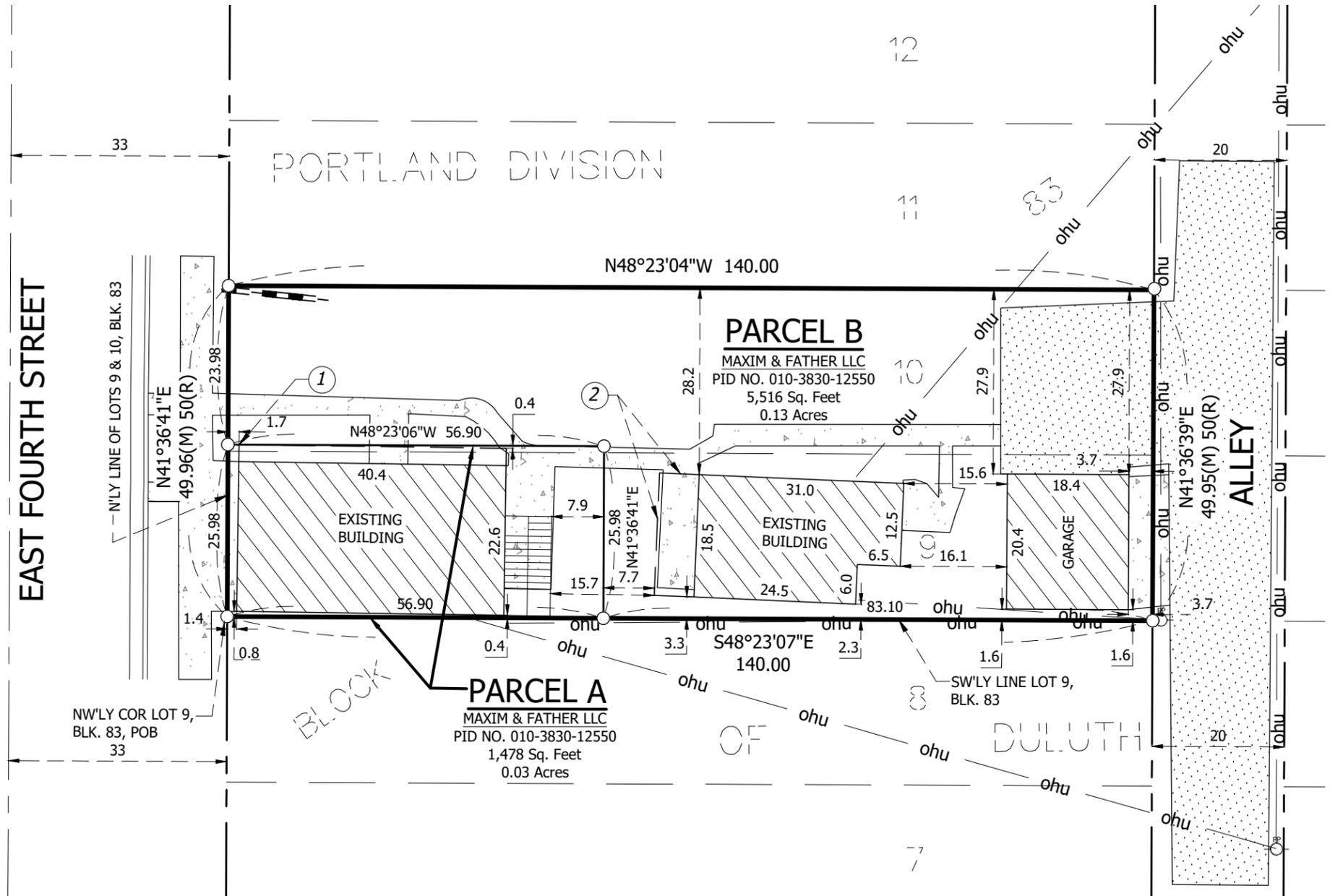
Said parcel contains 1,478 Sq. Feet or 0.03 Acres.

LEGAL DESCRIPTION FOR PARCEL B

Lots 9 and 10, Block 83, PORTLAND DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, Except the following described parcel:

Beginning at the Northwestern corner of said Lot 9; thence on an assumed bearing of South 48 degrees 23 minutes 07 seconds East, along the Southwesterly line of said Lot 9 for a distance of 56.90 feet; thence North 41 degrees 36 minutes 41 seconds East, along a line parallel with the Northerly line of said Lots 9 and 10 for a distance of 25.98 feet; thence North 48 degrees 23 minutes 06 seconds West 56.90 feet to said Northerly line of said Lots 9 and 10; thence South 41 degrees 36 minutes 41 seconds East, along said Northerly line 25.98 feet to the point of beginning.

Said parcel contains 5,516 Sq. Feet or 0.13 Acres.



LEGEND

	CONCRETE SURFACE	(M)-FIELD MEASURED DIMENSION	# REFER TO SURVEYOR'S NOTES
	BITUMINOUS SURFACE	(R)-RECORD DIMENSION	○ SET CAPPED REBAR RLS. NO. 49505
	EXISTING BUILDINGS	POB-POINT OF BEGINNING	○ UTILITY POLE
	RETAINING WALL		OVERHEAD UTILITIES
	CENTER LINE		RIGHT OF WAY LINE
	BOUNDARY LINE AS SURVEYED		EXISTING PLAT LINE
	PROPOSED PARCEL LINE		CONCRETE CURB & GUTTER

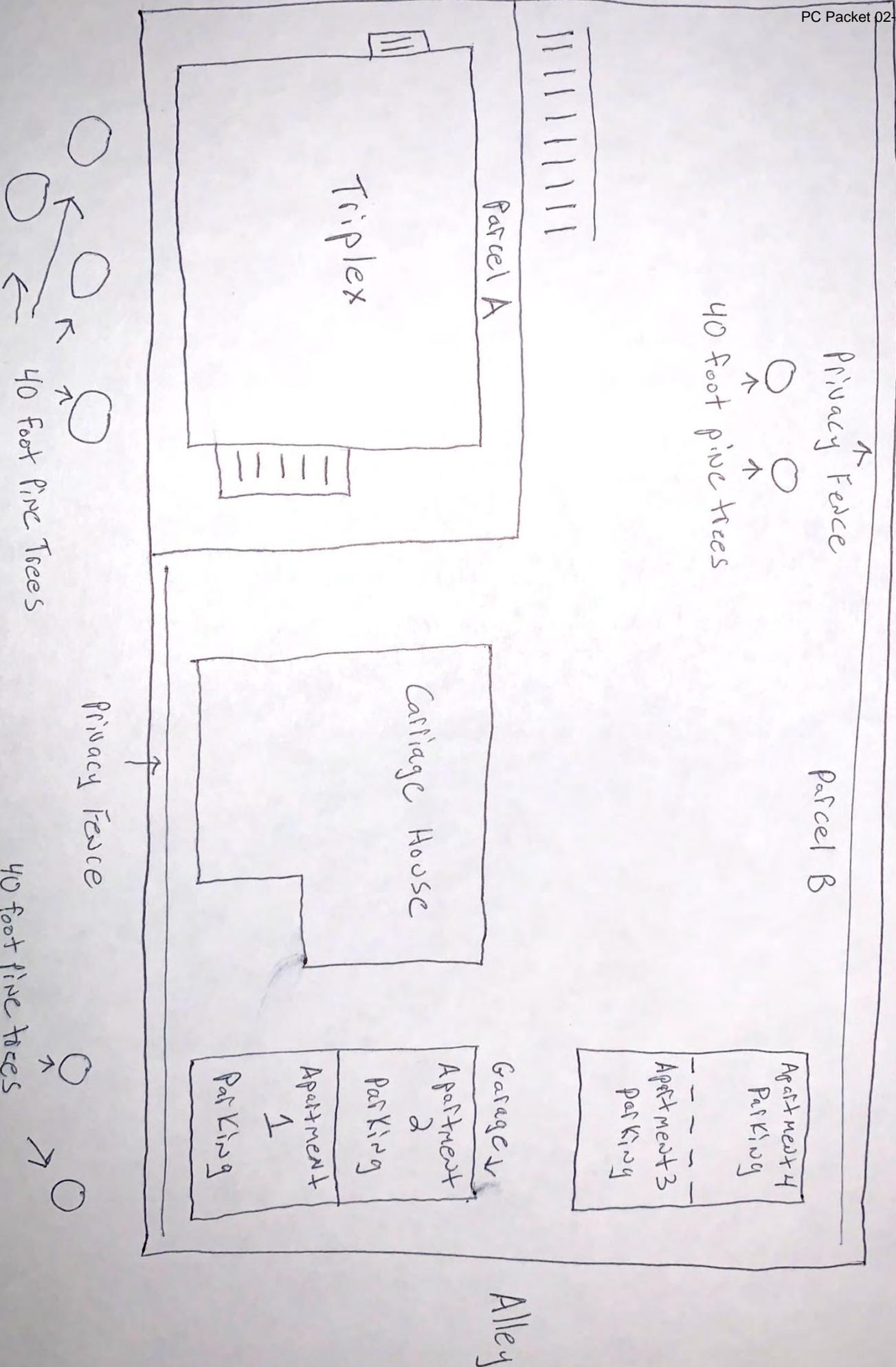
SURVEYOR'S NOTES

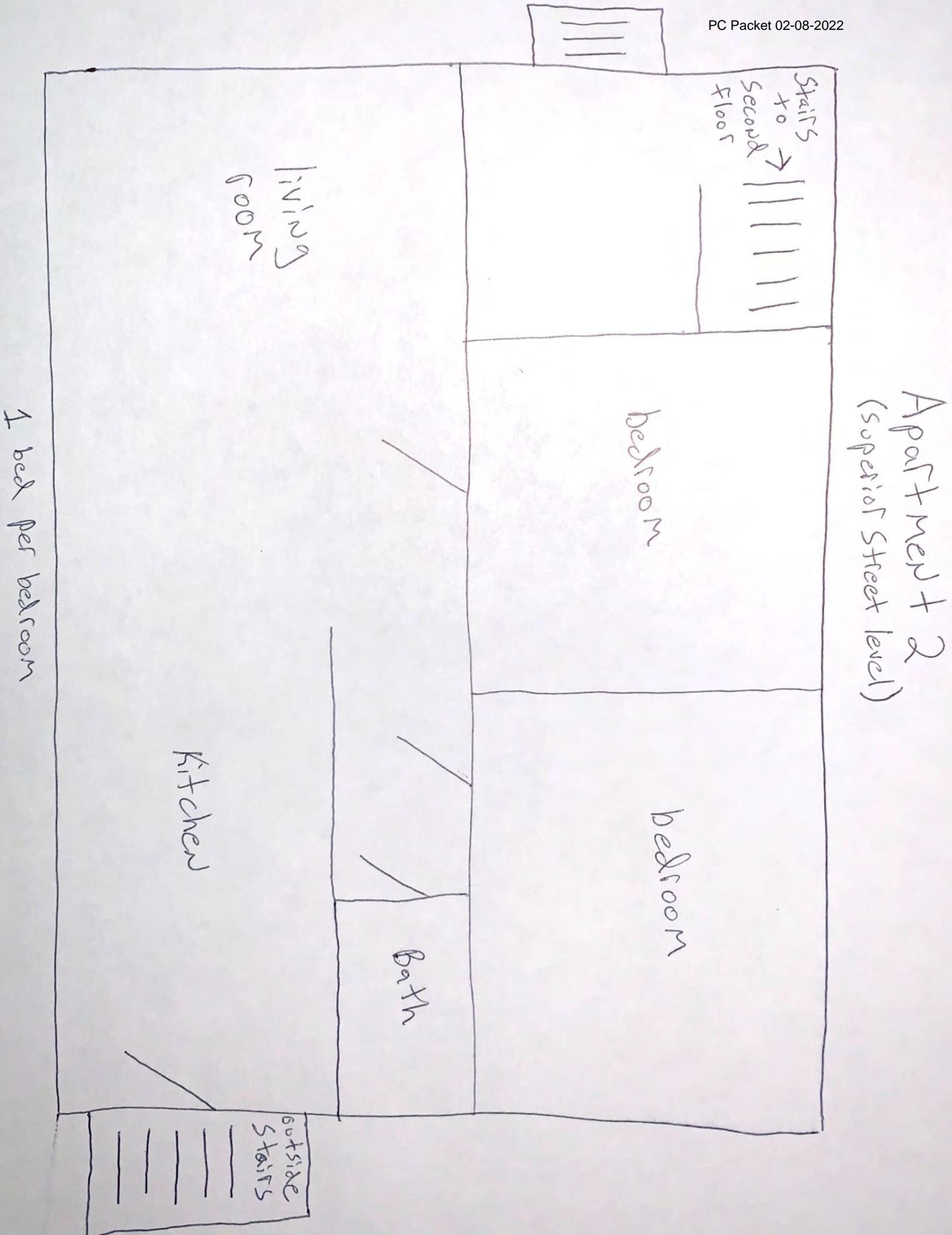
- BUILDING OVERHANG LOCATED ON NE'LY LINE OF PROPOSED PARCEL A.
- ROOF OVERHANG.
- THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
- BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
- BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY. SEE ARCHITECTURAL PLAN FOR BUILDING FOUNDATION DIMENSIONS.

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota. David R. Evanson MN License #49505	CERTIFICATE OF SURVEY	
	CLIENT: MIKE MAXIM JR ADDRESS: 1218 E 4TH ST, DULUTH, MN 55805 DATE: 9-7-2021	REVISIONS: JOB NO: 21-295 SHEET 1 OF 1



Property Layout





Apartment 2
(Superior Street level)

1 bed per bedroom

Vacation Dwelling Unit Worksheet

1. The minimum rental period shall be not less than two consecutive nights (does not apply to Form districts). **What will be your minimum rental period?** 1 nights

2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two. You may rent no more than four bedrooms.

How many legal bedrooms are in the dwelling?

2 per UNIT

What will be your maximum occupancy?

5 people per UNIT

3. Off-street parking shall be provided at the following rate:

a. 1-2 bedroom unit, 1 space

b. 3 bedroom unit, 2 spaces

c. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.

d. Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.

e. Form districts are not required to provide parking spaces.

How many off-street parking spaces will your unit provide? 1 per UNIT

4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street. **Will you allow motorhome or trailer parking? If so, where?** No

5. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.

6. The property owner must provide a site plan, drawn to scale, showing parking and driveways, all structures and outdoor recreational areas that guests will be allowed to use, including, but not limited to, deck/patio, barbeque grill, recreational fire, pool, hot tub, or sauna, and provide detail concerning the provision of any dense urban screen that may be required to buffer these areas from adjoining properties. Please note that this must be on 8 x 11 size paper.

7. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first. An owner of a vacation dwelling unit permitted prior to May 15, 2016, may request, and the land use supervisor may grant, an application for adjustment of an existing permit to conform to this section, as amended, for the remainder of the permit term.

8. Permit holder must keep a guest record including the name, address, phone number, and vehicle (and trailer) license plate information for all guests and must provide a report to the City upon 48 hours' notice. **Please explain how and where you will**

keep your guest record (log book, excel spreadsheet, etc):

ON a Spreadsheet

9. Permit holder must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24-hours-a-day to any complaints from neighbors or the City. The permit holder must notify the Land Use Supervisor within 10 days of a change in the managing agent or local contact's contact information.

Please provide the name and contact information for your local contact:

Michael Maxim 218 940 4540 Mikepmjr@yahoo.com

10. Permit holder must disclose in writing to their guests the following rules and regulations:

- a. The managing agent or local contact's name, address, and phone number;
- b. The maximum number of guests allowed at the property;
- c. The maximum number of vehicles, recreational vehicles, and trailers allowed at the property and where they are to be parked;
- d. Property rules related to use of exterior features of the property, such as decks, patios, grills, recreational fires, pools, hot tubs, saunas and other outdoor recreational facilities;
- e. Applicable sections of City ordinances governing noise, parks, parking and pets;

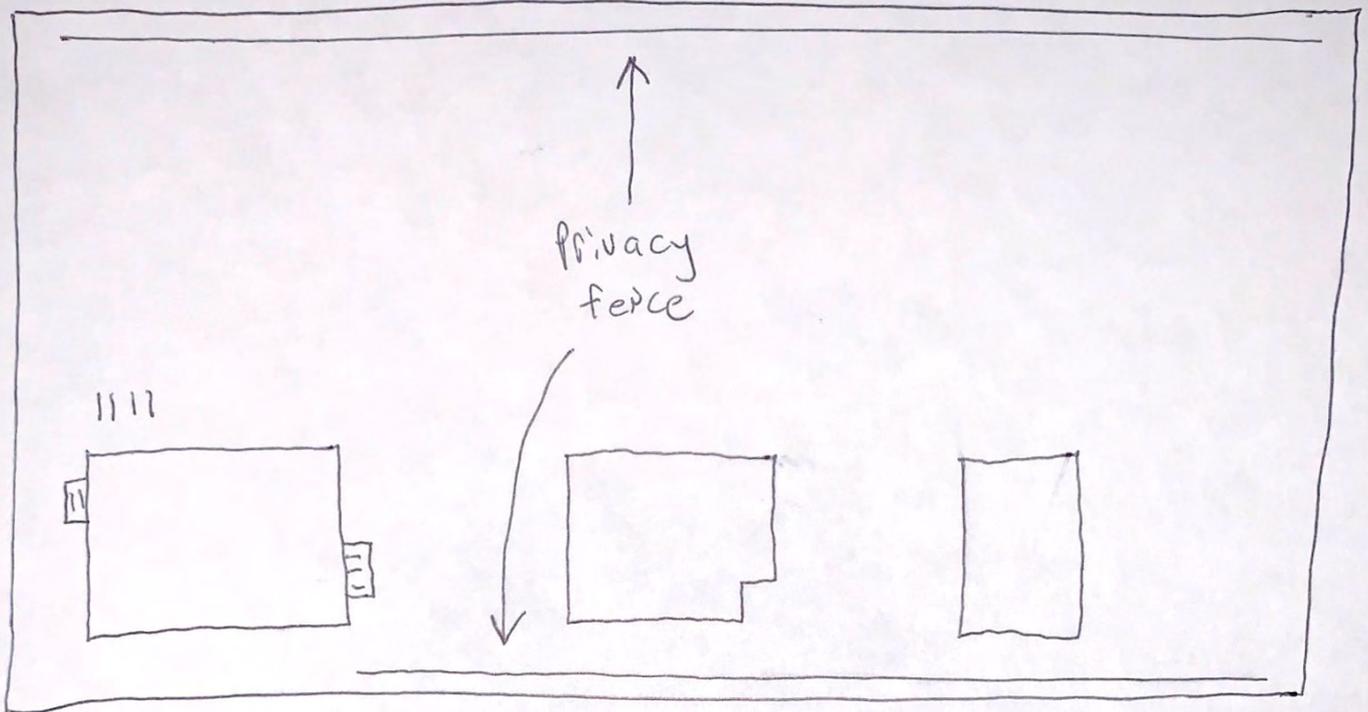
Please state where and how this information will be provided to your guests:

Through email

11. Permit holder must post their permit number on all print, poster or web advertisements. Do you agree to include the permit number on all advertisements? yes

12. Prior to rental, permit holder must provide the name, address, and phone number for the managing agent or local contact to all property owners within 100' of the property boundary; submit a copy of this letter to the Planning and Community Development office. In addition, note that permit holder must notify neighboring properties within 10 days of a change in the managing agent or local contact's contact information.

Screening Plan



We will have privacy fencing on the east & west side of the property



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

File Number	PL 22-003	Contact	Chris Lee, clee@duluthmn.gov	
Type	Interim Use Permit – Vacation Dwelling Unit	Planning Commission Date	February 8, 2022	
Deadline for Action	Application Date	January 4, 2022	60 Days	March 5, 2022
	Date Extension Letter Mailed	January 10, 2022	120 Days	May 4, 2022
Location of Subject	1218 E 4 th Street, Unit 3			
Applicant	Maxim & Father LLC	Contact	Mike Maxim	
Agent	N/A	Contact	N/A	
Legal Description	PID # 010-1460-04100			
Site Visit Date	January 10, 2022	Sign Notice Date	January 25, 2022	
Neighbor Letter Date	January 25, 2022	Number of Letters Sent	70	

Proposal

Applicant proposes use of one unit in an existing 2,700 square foot triplex as a vacation dwelling unit. The permit would allow for a 314 square foot, two-bedroom unit with a maximum of 5 occupants.

Vacation dwelling units located in the F-6 Form District are exempt from minimum night stays and parking, and there is no cap on number of permits issued.

Recommended Action: Staff recommends that Planning Commission approve with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-6	Single-family Residential	Neighborhood Mixed Use
North	F-6	Single-family Residential	Neighborhood Mixed Use
South	R-2	Single-family Residential	Neighborhood Mixed Use
East	F-6	Single-family Residential	Neighborhood Mixed Use
West	F-6	Single-family Residential	Neighborhood Mixed Use

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in the F-6 zone district.

UDC Sec. 50-37.10.E . . . the Council shall only approve an interim use permit, or approve it with conditions, if it determines that:

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location;
2. The applicant agrees to sign a development agreement with the city.
3. There is a



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city-wide cap on vacation dwelling units or accessory vacation dwelling units; permits issued for vacation dwelling units or accessory vacation dwelling units in any form district shall not be counted against the maximum number of permits that may be issued, 4. Except for properties within the Higher Education Overlay District as identified in 50-18.5, the minimum rental period and off-street parking requirements of 50-20.3.U and 50-20.5.M shall not apply for vacation dwelling units or accessory vacation dwelling units in form districts.

Comprehensive Plan Governing Principle and/or Policies and Current History (if applicable):

Governing Principle #8 - Encourage mix of activities, uses, and densities.

- Econ. Dev. Policy #3 - Build on Existing Economic Strengths & Competitive Advantages
S9: Encourage expansion of the city's tourism economy through efforts to expand in areas of current activity, such as in Canal Park, but also through marketing and investment in destination neighborhoods and iconic tourism experiences unique to Duluth.

Applicant is proposing to provide another type of lodging product for visitors to the City of Duluth and surrounding area.

Future Land Use –Neighborhood Mixed Use: A transitional use between more intensive commercial uses and purely residential neighborhoods. Includes conversions of houses to office or live-work spaces. May include limited commercial-only space oriented to neighborhood or specialty retail markets.

History: 1218 East 4th Street - The 2,700 square foot single-family dwelling was built in 1905.

1218 ½ East 4th Street – The 527 square foot single-family dwelling was built in 1905.

These properties received a variance from setbacks to reduce the nonconformity status for a boundary line adjustment.

Review and Discussion Items:

- Applicant's property is located at 1218 E 4th St, Unit 3. The proposed vacation dwelling is a 2-bedroom unit within a triplex. The unit would allow for a maximum of 5 guests. Unit 3 is located on the uppermost floor.
- Vacation dwelling units located in Form districts are exempt from number of interim use permits issued, minimum night stays and parking requirements.
- The applicant has noted on their site plan that there will be one off street parking space located off the alley for this unit. Parking is not required for Short Term Rentals located in a Form District.
- There will not be any campers or trailers parked on the property.
- The site does not have any outdoor amenities. The applicant has a privacy fence and pine trees to serve as a buffer.
- Permit holders must designate a managing agent or local contact who resides within 25 miles of the city and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the city. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. The applicant has listed themselves to serve as the managing agent, which meets the criteria.



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7) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.

8) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").

9) No comments from citizens, City staff, or any other entity were received regarding the application.

10) The permit will expire 6 years from the approval date. The permit will lapse if no activity takes place within 1 year of approval.

Staff Recommendation:

Based on the above findings, Staff recommends that Planning Commission approve the interim use permit subject to the following:

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
- 2) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit.



PL 22-001
thru -004
IUP 1218 E
4th St

Legend

- Gas Main
- Water Main
- Hydrant

Sanitary Sewer Mains

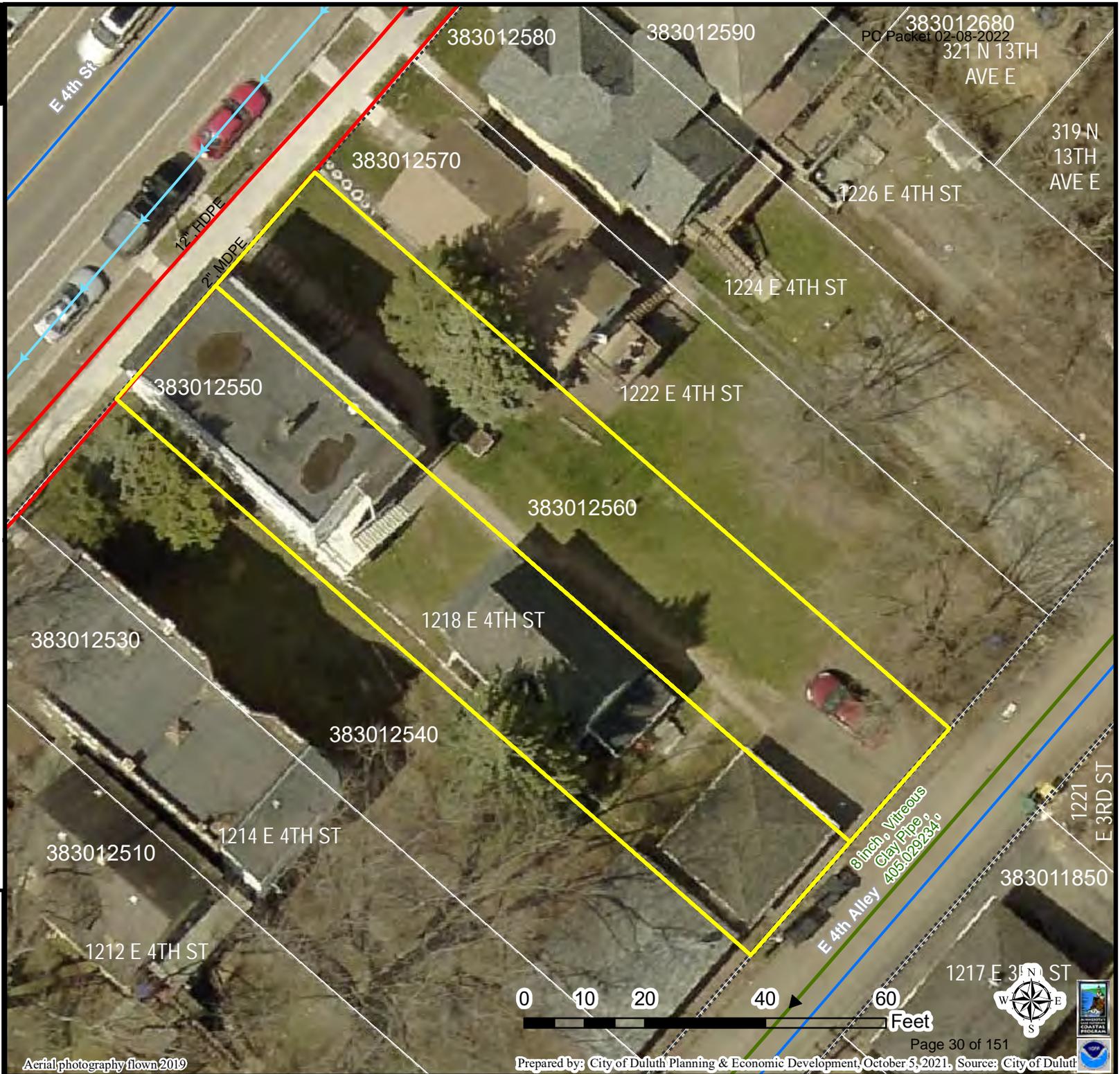
- CITY OF DULUTH
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Easement Type

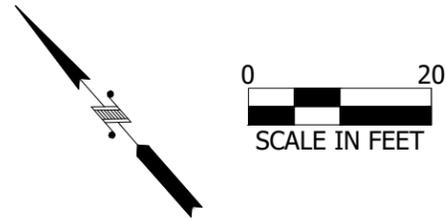
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Aerial photography flown 2019

Prepared by: City of Duluth Planning & Economic Development, October 5, 2021, Source: City of Duluth



PARENT LEGAL DESCRIPTION PER DOC. NO. 1195970

Lot 9, Block 83, Portland Division of Duluth, St. Louis County, Minnesota.
 Lot 10, Block 83, Portland Division of Duluth, St. Louis County, Minnesota.

LEGAL DESCRIPTION FOR PARCEL A

That part of Lots 9 and 10, Block 83, PORTLAND DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Beginning at the Northwestern corner of said Lot 9; thence on an assumed bearing of South 48 degrees 23 minutes 07 seconds East, along the Southwesterly line of said Lot 9 for a distance of 56.90 feet; thence North 41 degrees 36 minutes 41 seconds East, along a line parallel with the Northerly line of said Lots 9 and 10 for a distance of 25.98 feet; thence North 48 degrees 23 minutes 06 seconds West 56.90 feet to said Northerly line of said Lots 9 and 10; thence South 41 degrees 36 minutes 41 seconds East, along said Northerly line 25.98 feet to the point of beginning.

Said parcel contains 1,478 Sq. Feet or 0.03 Acres.

LEGAL DESCRIPTION FOR PARCEL B

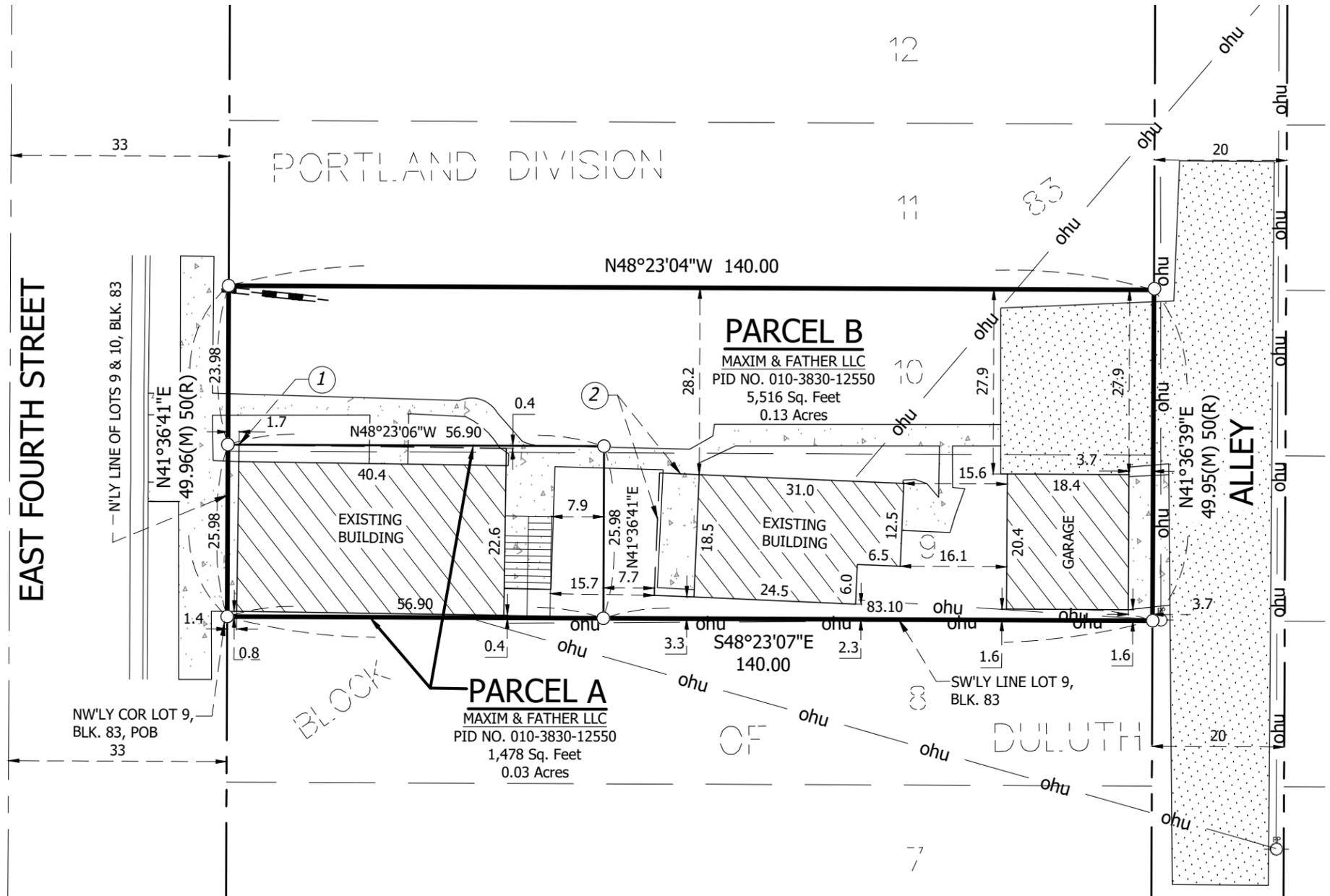
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Said parcel contains 5,516 Sq. Feet or 0.13 Acres.

LEGEND

	CONCRETE SURFACE	(M)-FIELD MEASURED DIMENSION	# REFER TO SURVEYOR'S NOTES
	BITUMINOUS SURFACE	(R)-RECORD DIMENSION	○ SET CAPPED REBAR RLS. NO. 49505
	EXISTING BUILDINGS	POB-POINT OF BEGINNING	○ UTILITY POLE
	RETAINING WALL		OVERHEAD UTILITIES
	CENTER LINE		RIGHT OF WAY LINE
	BOUNDARY LINE AS SURVEYED		EXISTING PLAT LINE
	PROPOSED PARCEL LINE		CONCRETE CURB & GUTTER



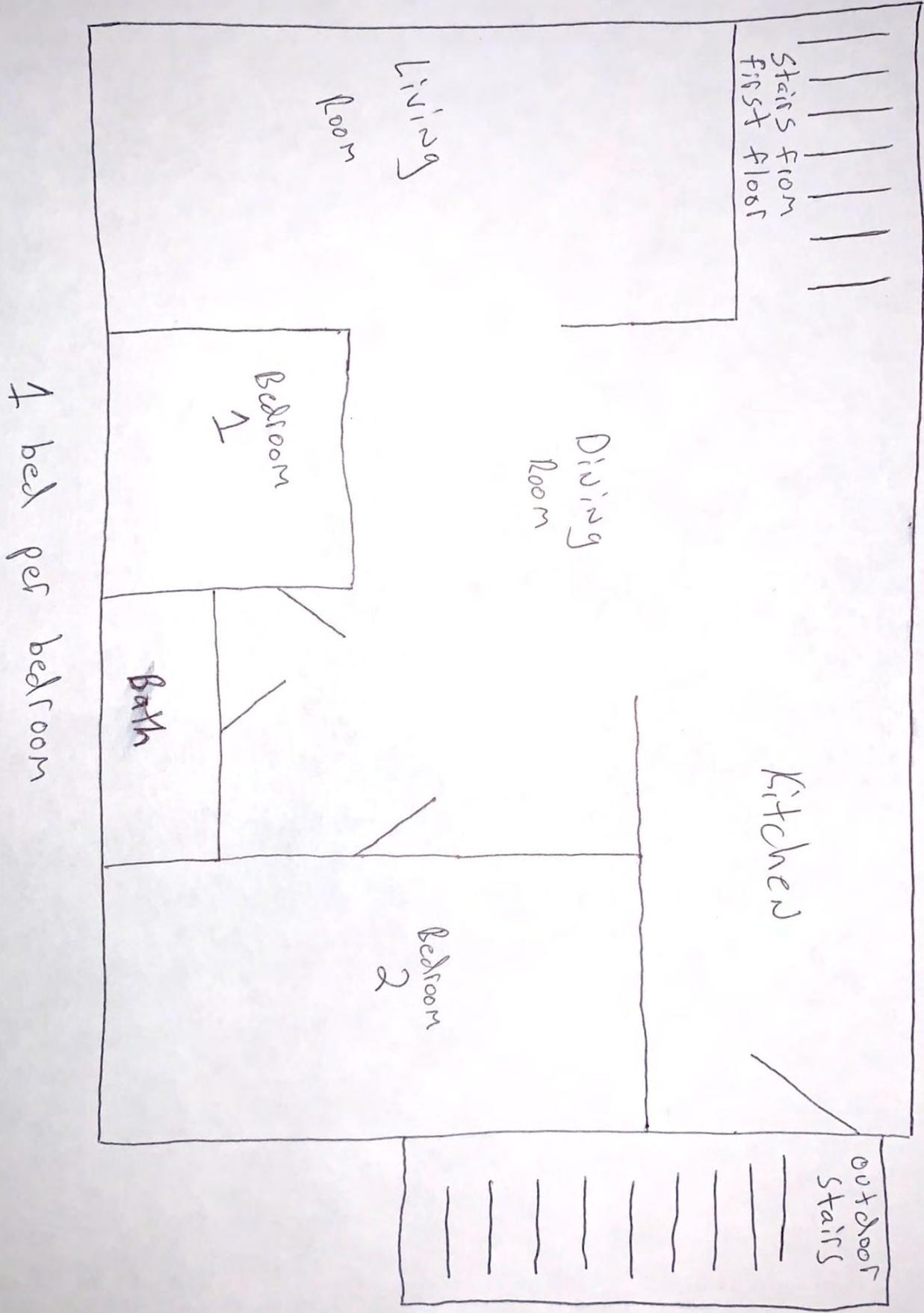
SURVEYOR'S NOTES

- BUILDING OVERHANG LOCATED ON NE'LY LINE OF PROPOSED PARCEL A.
- ROOF OVERHANG.
- THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
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I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota. David R. Evanson MN License #49505	CERTIFICATE OF SURVEY	
	CLIENT: MIKE MAXIM JR ADDRESS: 1218 E 4TH ST, DULUTH, MN 55805 DATE: 9-7-2021	REVISIONS: JOB NO: 21-295 SHEET 1 OF 1



Apartment 3
(Top Floor)



Vacation Dwelling Unit Worksheet

1. The minimum rental period shall be not less than two consecutive nights (does not apply to Form districts). **What will be your minimum rental period?** 1 nights

2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two. You may rent no more than four bedrooms.

How many legal bedrooms are in the dwelling?

2 per UNIT

What will be your maximum occupancy?

5 people per UNIT

3. Off-street parking shall be provided at the following rate:

a. 1-2 bedroom unit, 1 space

b. 3 bedroom unit, 2 spaces

c. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.

d. Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.

e. Form districts are not required to provide parking spaces.

How many off-street parking spaces will your unit provide? 1 per UNIT

4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street. **Will you allow motorhome or trailer parking? If so, where?** No

5. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.

6. The property owner must provide a site plan, drawn to scale, showing parking and driveways, all structures and outdoor recreational areas that guests will be allowed to use, including, but not limited to, deck/patio, barbeque grill, recreational fire, pool, hot tub, or sauna, and provide detail concerning the provision of any dense urban screen that may be required to buffer these areas from adjoining properties. Please note that this must be on 8 x 11 size paper.

7. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first. An owner of a vacation dwelling unit permitted prior to May 15, 2016, may request, and the land use supervisor may grant, an application for adjustment of an existing permit to conform to this section, as amended, for the remainder of the permit term.

8. Permit holder must keep a guest record including the name, address, phone number, and vehicle (and trailer) license plate information for all guests and must provide a report to the City upon 48 hours' notice. **Please explain how and where you will**

keep your guest record (log book, excel spreadsheet, etc):

ON a Spreadsheet

9. Permit holder must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24-hours-a-day to any complaints from neighbors or the City. The permit holder must notify the Land Use Supervisor within 10 days of a change in the managing agent or local contact's contact information.

Please provide the name and contact information for your local contact:

Michael Maxim 218 940 4540 Mikepmjr@yahoo.com

10. Permit holder must disclose in writing to their guests the following rules and regulations:

- a. The managing agent or local contact's name, address, and phone number;
- b. The maximum number of guests allowed at the property;
- c. The maximum number of vehicles, recreational vehicles, and trailers allowed at the property and where they are to be parked;
- d. Property rules related to use of exterior features of the property, such as decks, patios, grills, recreational fires, pools, hot tubs, saunas and other outdoor recreational facilities;
- e. Applicable sections of City ordinances governing noise, parks, parking and pets;

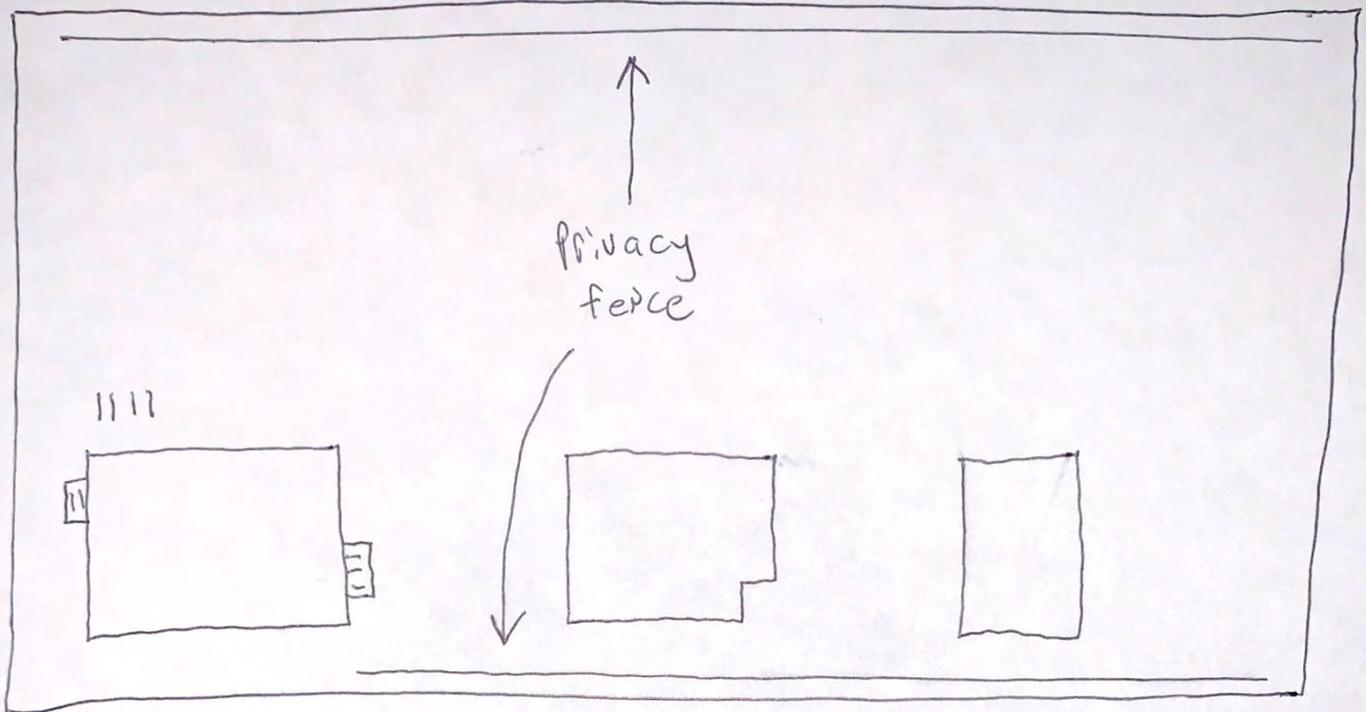
Please state where and how this information will be provided to your guests:

Through email

11. Permit holder must post their permit number on all print, poster or web advertisements. Do you agree to include the permit number on all advertisements? yes

12. Prior to rental, permit holder must provide the name, address, and phone number for the managing agent or local contact to all property owners within 100' of the property boundary; submit a copy of this letter to the Planning and Community Development office. In addition, note that permit holder must notify neighboring properties within 10 days of a change in the managing agent or local contact's contact information.

Screening Plan



We will have privacy fencing on the east & west side of the property



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580
 planning@duluthmn.gov

File Number	PL 22-004	Contact	Chris Lee, clee@duluthmn.gov	
Type	Interim Use Permit – Vacation Dwelling Unit	Planning Commission Date	February 8, 2022	
Deadline for Action	Application Date	January 4, 2022	60 Days	March 5, 2022
	Date Extension Letter Mailed	January 10, 2022	120 Days	May 4, 2022
Location of Subject	1218 1/2 E 4 th Street, Carriage House			
Applicant	Maxim & Father LLC	Contact	Mike Maxim	
Agent	N/A	Contact	N/A	
Legal Description	PID # 010-1460-04100			
Site Visit Date	January 10, 2022	Sign Notice Date	January 25, 2022	
Neighbor Letter Date	January 25, 2022	Number of Letters Sent	70	

Proposal

Applicant proposes use of one unit in a 527 square foot triplex as a vacation dwelling unit. The permit would allow for a two-bedroom unit with a maximum of 5 occupants.

Vacation dwelling units located in the F-6 Form District are exempt from minimum night stays and parking, and there is no cap on number of permits issued.

Recommended Action: Staff recommends that Planning Commission approve with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-6	Single-family Residential	Neighborhood Mixed Use
North	F-6	Single-family Residential	Neighborhood Mixed Use
South	R-2	Single-family Residential	Neighborhood Mixed Use
East	F-6	Single-family Residential	Neighborhood Mixed Use
West	F-6	Single-family Residential	Neighborhood Mixed Use

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in the F-2 zone district.

UDC Sec. 50-37.10.E . . . the Council shall only approve an interim use permit, or approve it with conditions, if it determines that:

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location;
2. The applicant agrees to sign a development agreement with the city.



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city-wide cap on vacation dwelling units or accessory vacation dwelling units; permits issued for vacation dwelling units or accessory vacation dwelling units in any form district shall not be counted against the maximum number of permits that may be issued, 4. Except for properties within the Higher Education Overlay District as identified in 50-18.5, the minimum rental period and off-street parking requirements of 50-20.3.U and 50-20.5.M shall not apply for vacation dwelling units or accessory vacation dwelling units in form districts.

Comprehensive Plan Governing Principle and/or Policies and Current History (if applicable):

Governing Principle #8 - Encourage mix of activities, uses, and densities.

- Econ. Dev. Policy #3 - Build on Existing Economic Strengths & Competitive Advantages
S9: Encourage expansion of the city's tourism economy through efforts to expand in areas of current activity, such as in Canal Park, but also through marketing and investment in destination neighborhoods and iconic tourism experiences unique to Duluth.

Applicant is proposing to provide another type of lodging product for visitors to the City of Duluth and surrounding area.

Future Land Use –Neighborhood Mixed Use: A transitional use between more intensive commercial uses and purely residential neighborhoods. Includes conversions of houses to office or live-work spaces. May include limited commercial-only space oriented to neighborhood or specialty retail markets.

History: 1218 East 4th Street - The 2,700 square foot triplex dwelling was built in 1905.

1218 ½ East 4th Street – The 527 square foot single-family dwelling was built in 1905.

These properties were subject to a variance from setbacks to reduce the nonconformity status for a boundary line adjustment.

Review and Discussion Items:

- 1) Applicant's property is located at 1218 1/2 E 4th St. The proposed vacation dwelling is a 2-bedroom unit in the carriage house. The unit would allow for a maximum of 5 guests.
- 2) Vacation dwelling units located in Form districts are exempt from number of interim use permits issued, minimum night stays and parking requirements.
- 3) The applicant has noted on their site plan that there will be one off street parking space located off the alley for this unit.
- 4) There will not be any campers or trailers parked on the property.
- 5) The site does not have any outdoor amenities. The applicant has a privacy fence and pine trees to serve as a buffer.
- 6) Permit holders must designate a managing agent or local contact who resides within 25 miles of the city and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the city. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the



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property boundary. The applicant has listed themselves to serve as the managing agent, which meets the criteria.

7) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.

8) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").

9) No comments from citizens, City staff, or any other entity were received regarding the application.

10) The permit will expire 6 years from the approval date.

Staff Recommendation:

Based on the above findings, Staff recommends that Planning Commission approve the interim use permit subject to the following:

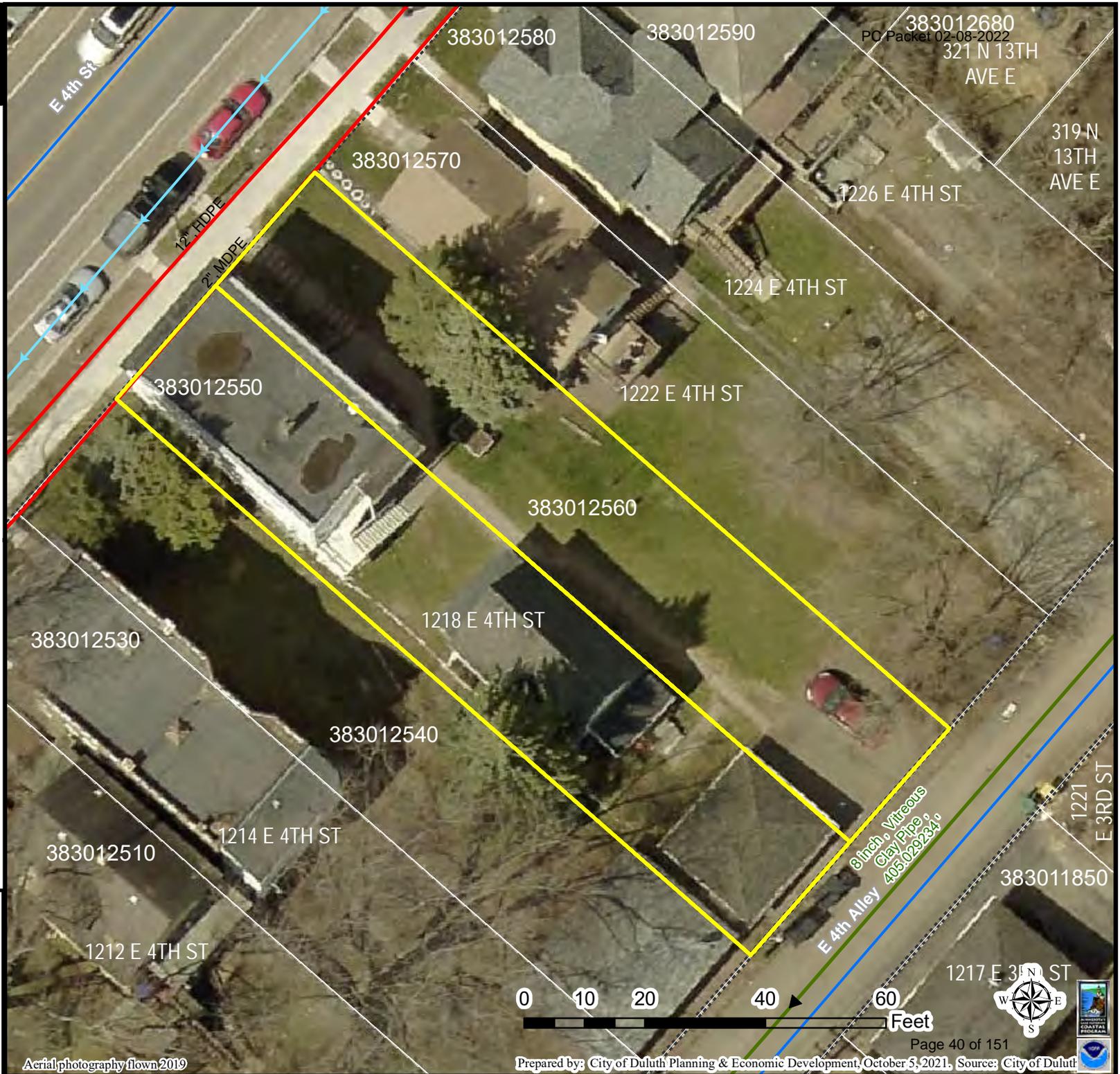
- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
- 2) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit.



PL 22-001
thru -004
IUP 1218 E
4th St

Legend

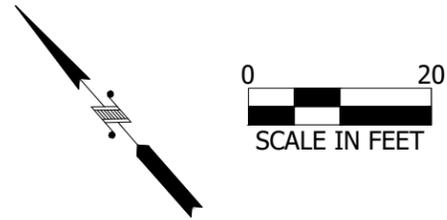
- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Road or Alley ROW
- Easement Type**
- Utility Easement
- Other Easement



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Aerial photography flown 2019





PARENT LEGAL DESCRIPTION PER DOC. NO. 1195970

Lot 9, Block 83, Portland Division of Duluth, St. Louis County, Minnesota.
 Lot 10, Block 83, Portland Division of Duluth, St. Louis County, Minnesota.

LEGAL DESCRIPTION FOR PARCEL A

That part of Lots 9 and 10, Block 83, PORTLAND DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Beginning at the Northwestern corner of said Lot 9; thence on an assumed bearing of South 48 degrees 23 minutes 07 seconds East, along the Southwesterly line of said Lot 9 for a distance of 56.90 feet; thence North 41 degrees 36 minutes 41 seconds East, along a line parallel with the Northerly line of said Lots 9 and 10 for a distance of 25.98 feet; thence North 48 degrees 23 minutes 06 seconds West 56.90 feet to said Northerly line of said Lots 9 and 10; thence South 41 degrees 36 minutes 41 seconds East, along said Northerly line 25.98 feet to the point of beginning.

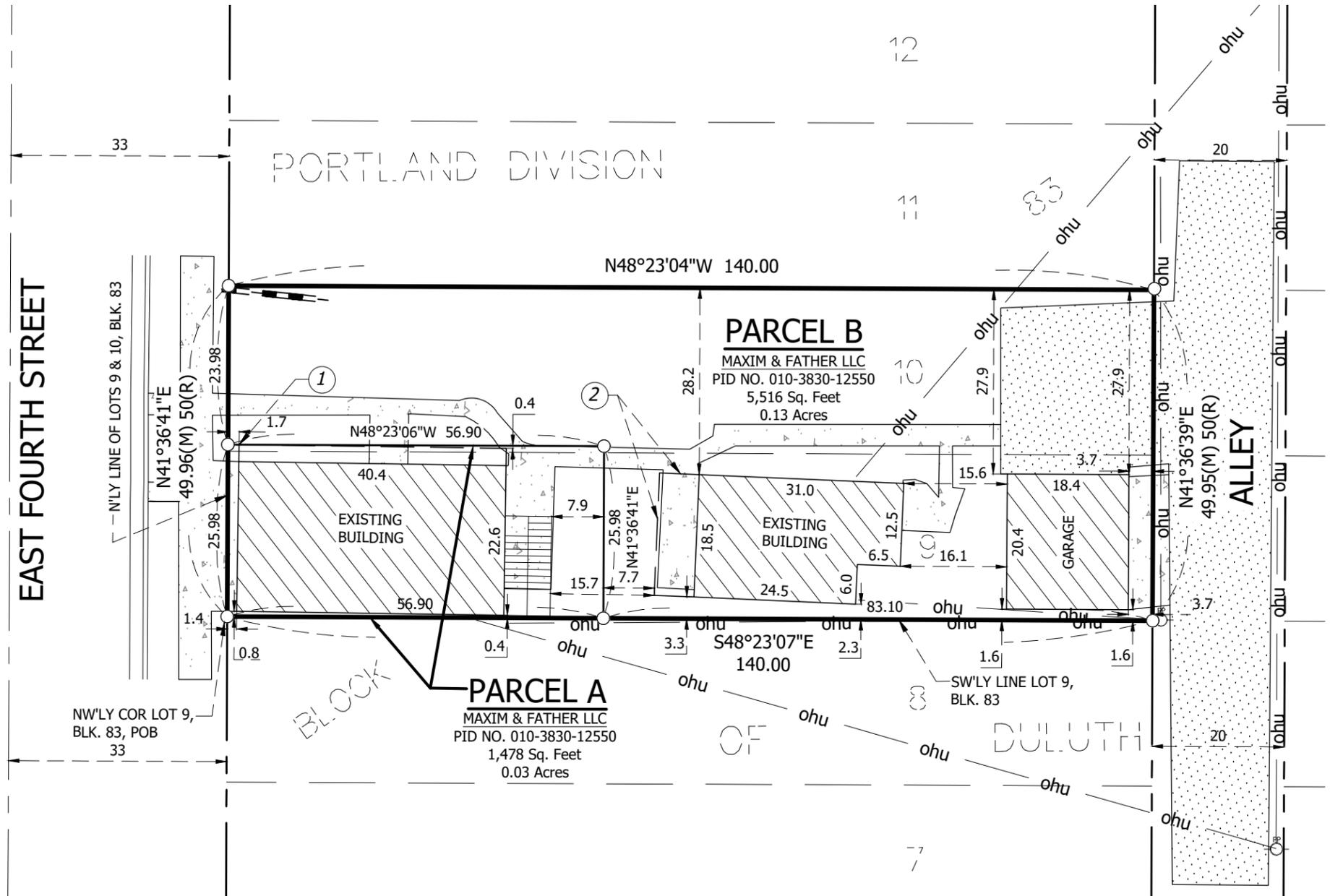
Said parcel contains 1,478 Sq. Feet or 0.03 Acres.

LEGAL DESCRIPTION FOR PARCEL B

Lots 9 and 10, Block 83, PORTLAND DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, Except the following described parcel:

Beginning at the Northwestern corner of said Lot 9; thence on an assumed bearing of South 48 degrees 23 minutes 07 seconds East, along the Southwesterly line of said Lot 9 for a distance of 56.90 feet; thence North 41 degrees 36 minutes 41 seconds East, along a line parallel with the Northerly line of said Lots 9 and 10 for a distance of 25.98 feet; thence North 48 degrees 23 minutes 06 seconds West 56.90 feet to said Northerly line of said Lots 9 and 10; thence South 41 degrees 36 minutes 41 seconds East, along said Northerly line 25.98 feet to the point of beginning.

Said parcel contains 5,516 Sq. Feet or 0.13 Acres.



LEGEND

	CONCRETE SURFACE	(M)-FIELD MEASURED DIMENSION	# REFER TO SURVEYOR'S NOTES
	BITUMINOUS SURFACE	(R)-RECORD DIMENSION	○ SET CAPPED REBAR RLS. NO. 49505
	EXISTING BUILDINGS	POB-POINT OF BEGINNING	○ UTILITY POLE
	RETAINING WALL		OVERHEAD UTILITIES
	CENTER LINE		RIGHT OF WAY LINE
	BOUNDARY LINE AS SURVEYED		EXISTING PLAT LINE
	PROPOSED PARCEL LINE		CONCRETE CURB & GUTTER

SURVEYOR'S NOTES

- BUILDING OVERHANG LOCATED ON NE'LY LINE OF PROPOSED PARCEL A.
- ROOF OVERHANG.
- THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
- BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
- BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY. SEE ARCHITECTURAL PLAN FOR BUILDING FOUNDATION DIMENSIONS.

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota. David R. Evanson MN License #49505 DATE: 9-7-2021	CERTIFICATE OF SURVEY		 ALTA LAND SURVEY COMPANY PHONE: 218-727-5211 LICENSED IN MN & WI WWW.ALTLANDSURVEYDULUTH.COM
	CLIENT: MIKE MAXIM JR ADDRESS: 1218 E 4TH ST, DULUTH, MN 55805 DATE: 9-7-2021	REVISIONS: JOB NO: 21-295 SHEET 1 OF 1	

Vacation Dwelling Unit Worksheet

1. The minimum rental period shall be not less than two consecutive nights (does not apply to Form districts). **What will be your minimum rental period?** 1 nights

2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two. You may rent no more than four bedrooms.

How many legal bedrooms are in the dwelling?

2 per UNIT

What will be your maximum occupancy?

5 people per UNIT

3. Off-street parking shall be provided at the following rate:

- a. 1-2 bedroom unit, 1 space
- b. 3 bedroom unit, 2 spaces
- c. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
- d. Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.
- e. Form districts are not required to provide parking spaces.

How many off-street parking spaces will your unit provide? 1 per UNIT

4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street. **Will you allow motorhome or trailer parking? If so, where?** No

5. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.

6. The property owner must provide a site plan, drawn to scale, showing parking and driveways, all structures and outdoor recreational areas that guests will be allowed to use, including, but not limited to, deck/patio, barbeque grill, recreational fire, pool, hot tub, or sauna, and provide detail concerning the provision of any dense urban screen that may be required to buffer these areas from adjoining properties. Please note that this must be on 8 x 11 size paper.

7. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first. An owner of a vacation dwelling unit permitted prior to May 15, 2016, may request, and the land use supervisor may grant, an application for adjustment of an existing permit to conform to this section, as amended, for the remainder of the permit term.

8. Permit holder must keep a guest record including the name, address, phone number, and vehicle (and trailer) license plate information for all guests and must provide a report to the City upon 48 hours' notice. **Please explain how and where you will**

keep your guest record (log book, excel spreadsheet, etc):

ON a Spreadsheet

9. Permit holder must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24-hours-a-day to any complaints from neighbors or the City. The permit holder must notify the Land Use Supervisor within 10 days of a change in the managing agent or local contact's contact information.

Please provide the name and contact information for your local contact:

Michael Maxim 218 940 4540 Mikepmjr@yahoo.com

10. Permit holder must disclose in writing to their guests the following rules and regulations:

- a. The managing agent or local contact's name, address, and phone number;
- b. The maximum number of guests allowed at the property;
- c. The maximum number of vehicles, recreational vehicles, and trailers allowed at the property and where they are to be parked;
- d. Property rules related to use of exterior features of the property, such as decks, patios, grills, recreational fires, pools, hot tubs, saunas and other outdoor recreational facilities;
- e. Applicable sections of City ordinances governing noise, parks, parking and pets;

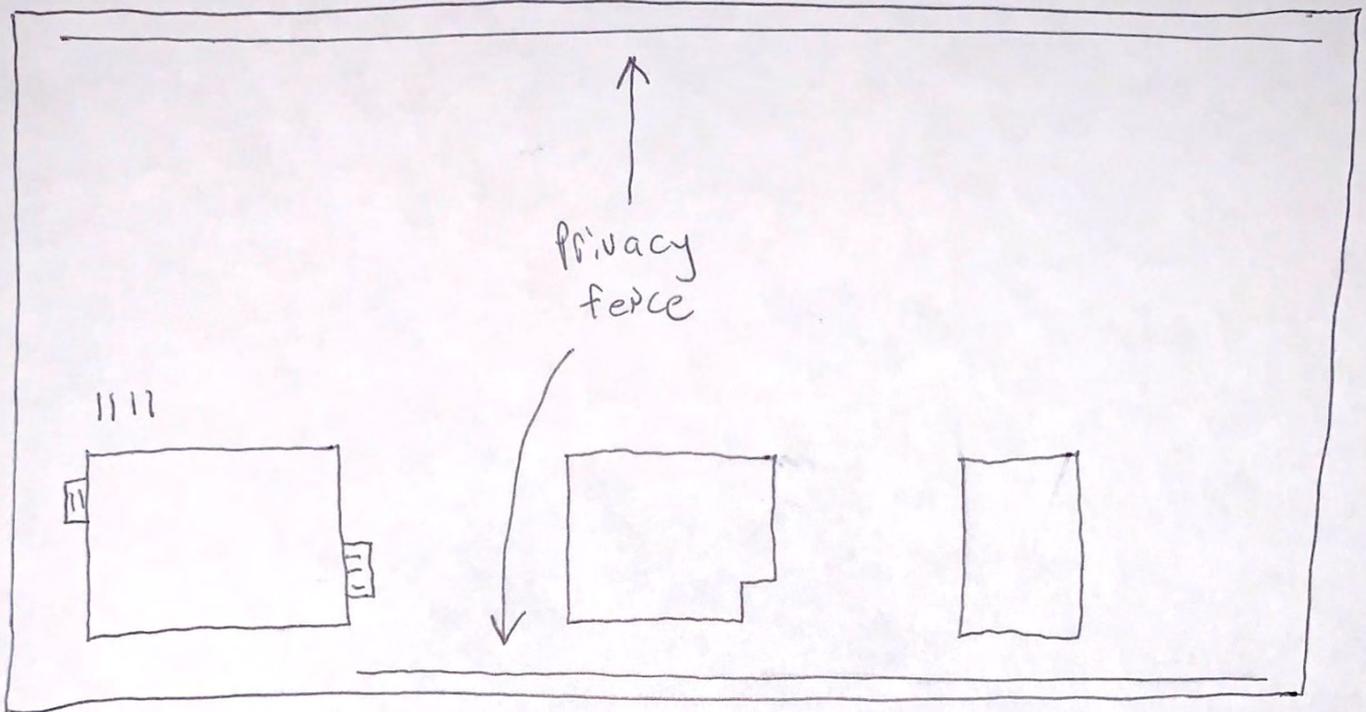
Please state where and how this information will be provided to your guests:

Through email

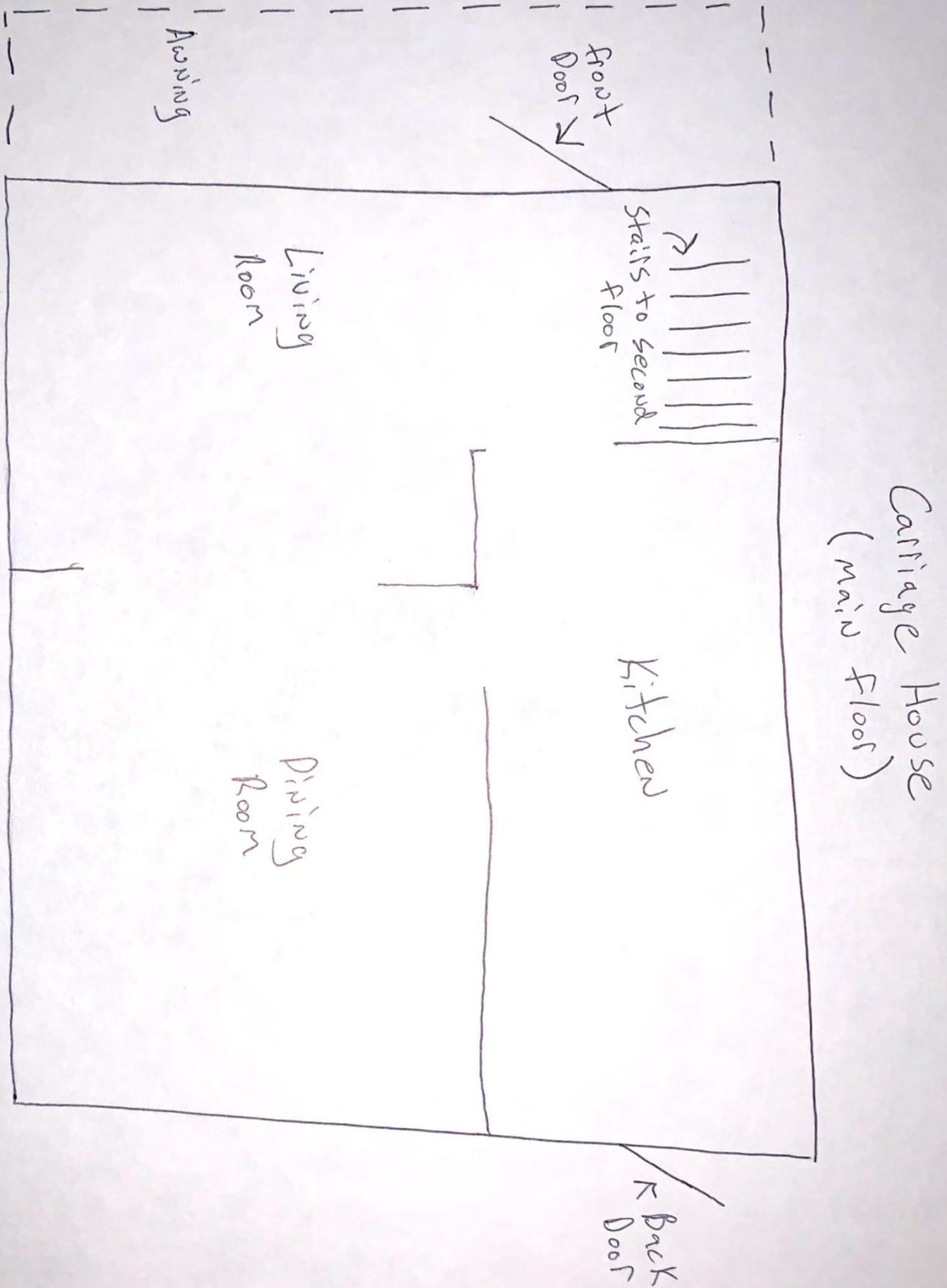
11. Permit holder must post their permit number on all print, poster or web advertisements. Do you agree to include the permit number on all advertisements? yes

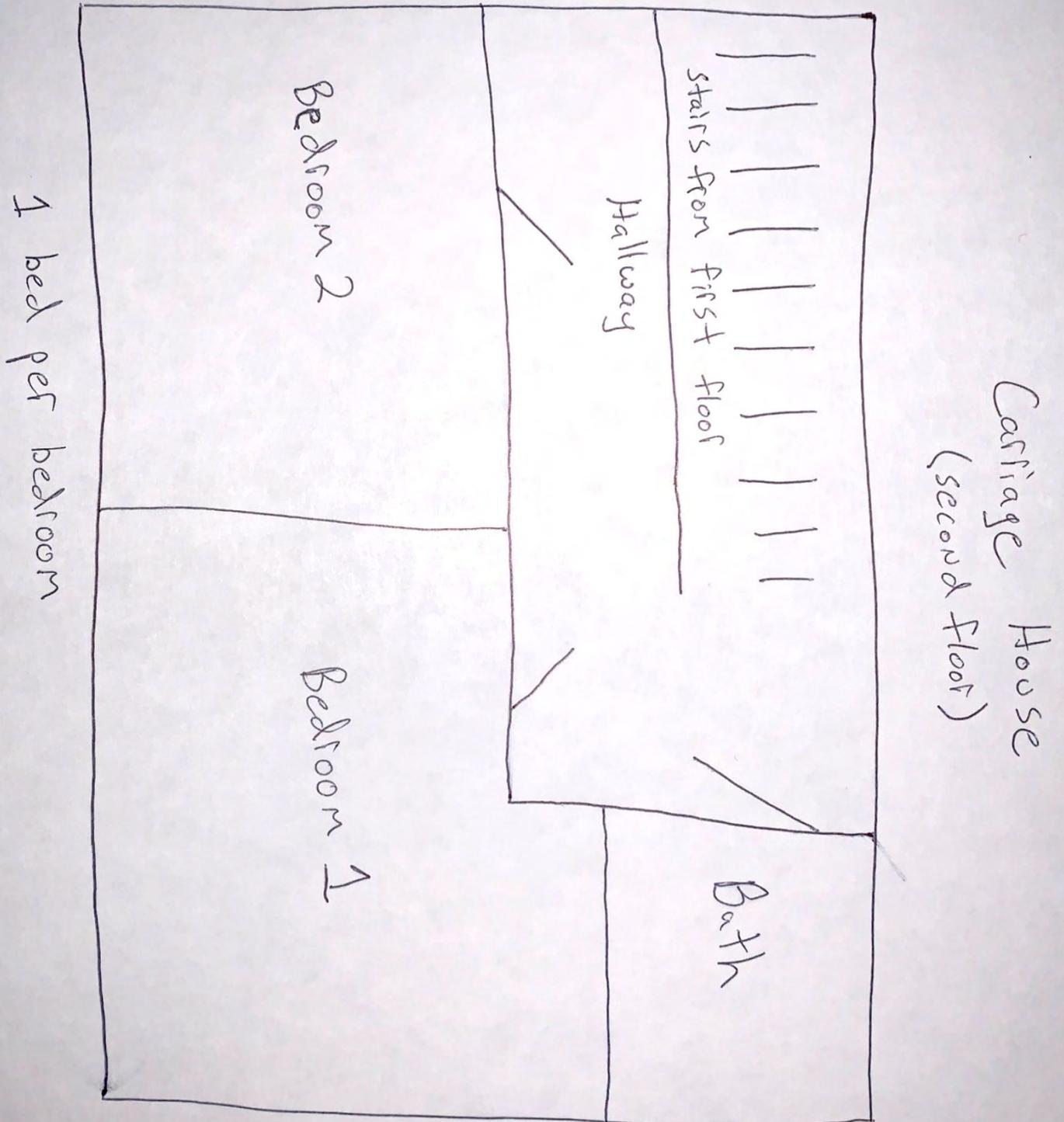
12. Prior to rental, permit holder must provide the name, address, and phone number for the managing agent or local contact to all property owners within 100' of the property boundary; submit a copy of this letter to the Planning and Community Development office. In addition, note that permit holder must notify neighboring properties within 10 days of a change in the managing agent or local contact's contact information.

Screening Plan



We will have privacy fencing on the east & west side of the property







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 Duluth, Minnesota 55802

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 planning@duluthmn.gov

File Number	PL 22-007		Contact	John Kelley, jkelley@duluthmn.gov	
Type	Interim Use Permit – Vacation Dwelling		Planning Commission Date		February 8, 2022
Deadline for Action	Application Date	January 13, 2022	60 Days	March 14, 2022	
	Date Extension Letter Mailed	January 25, 2022	120 Days	May 13, 2022	
Location of Subject	8502 Bessemer Street				
Applicant	Mark & Jamie Sams		Contact	On file	
Agent			Contact		
Legal Description	PID # 010-2530-06540				
Site Visit Date	January 28, 2022		Sign Notice Date	January 25, 2022	
Neighbor Letter Date	January 25, 2022		Number of Letters Sent	11	

Proposal

Applicant proposes use of an approximately 1,076 square foot, 3 bedroom single family dwelling as a vacation dwelling unit. The permit is good for a vacation dwelling unit with 7 occupants.

Recommended Action: Staff recommends that Planning Commission approve the interim use permit.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-2	Single Family Dwelling	Urban Residential
North	R-1	Single Family Dwelling	Urban Residential/Open Space
South	R-2	Vacant land	Urban Residential/Open Space
East	R-2	Single Family Dwelling	Urban Residential
West	RR-1	Vacant land	Open Space

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in the F-3 zone district.

UDC Sec. 50-37.10.E . . . the Commission shall only approve an interim use permit, or approve it with conditions, if it determines that: 1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location; 2. The applicant agrees to sign a development agreement with the city.

Comprehensive Plan Governing Principle and/or Policies and Current History (if applicable):

Governing Principle #8 - Encourage mix of activities, uses, and densities.

- Econ. Dev. Policy #3 - Build on Existing Economic Strengths & Competitive Advantages
S9: Encourage expansion of the city's tourism economy through efforts to expand in areas of current activity, such as in Canal Park, but also through marketing and investment in destination neighborhoods and iconic tourism experiences unique to Duluth.

Applicant is proposing to provide another type of lodging product for visitors to the City of Duluth and surrounding area.

Future Land Use – Urban Residential: Greatest variety of residential building types, medium to high densities. Applicable to larger infill areas close to downtown, entertainment or activity centers, and waterfront residential areas. May include student housing areas, live/work units, and limited neighborhood retail. Connected or adjacent to parks and open space.

History: House is 1,067 square feet in size and constructed in 1967.

Review and Discussion Items:

- 1) Applicant's property is located at 8502 Bessemer Street. The proposed vacation dwelling is a 1,067 square foot single family home with 3 bedrooms. The dwelling unit would allow for a maximum of 7 guests.
- 2) The applicant has noted on their site plan that there will be parking provided on a driveway adjacent to an existing garage located on the central portion of the lot with access from Bessemer Street.
- 4) There will not be any campers or trailers parked on the property.
- 5) The site plan does depict outdoor amenities including a deck with grill, fire pit and a sauna. The property does not share a lot line with other lots and is separated by right of way from adjacent parcels. The site is heavily forested with trees on property lines providing screening for backyard amenities from adjacent residential structures. Staff believes there is sufficient screening provided by existing trees and vegetation.
- 6) Permit holders must designate a managing agent or local contact who resides within 25 miles of the city and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the city. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. The applicant has listed themselves to serve as the managing agent, and meet the criteria.
- 7) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.
- 8) Applicant will be applying for all relevant permits and licenses and these are contingent upon approval of the Interim Use Permit for a Vacation Dwelling Unit.
- 9) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").
- 10) No comments from citizens, City staff, or any other entity were received regarding the application.
- 11) Interim Use Permits approved by the City Council shall lapse if the project or activity authorized is not begun within 1 year of the permit date. The building official may extend this period one time for a period of up to 1 year if the property owner presents a written request showing the reasons for the delay was outside the owner's control (UDC Sec. 50-37.1.N).

Staff Recommendation:

Based on the above findings, Staff recommends that Planning Commission approve the interim use permit with the following conditions:

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
- 2) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit.



CITY OF
DULUTH

252004280

CITY OF
DULUTH

252004040

P-1 (Park)

8505 252003980
BESSEMER ST
STRUNK JOHN R

**R-1 (Residential
Traditional)**

252003410
PC Packet 02-08-2022

8421
BESSEMER ST
THOMPSON
JAY M

Bessemer St

SAMS JAMIE

CITY OF
DULUTH

253006700

253006540 SAMS JAMIE

Legend

- Road or Alley ROW
- Easement Type**
- ▨ Utility Easement
- ▨ Other Easement
- ▨ Zoning Boundaries
- ▨ Trout Stream (GPS)
- ▨ Other Stream (GPS)

253006940

**RR-1 (Rural
Residential 1)**

8502
BESSEMER ST

**R-2
(Residential
Urban)**

SPIRIT
VALLEY LAND
COMPANY LLC

85th Ave W Creek

253007020

253011410

253011400

253011390

253011380

253011370 LUKOVSKY
PETER L TRUST

LUKOVSKY 253011360
PETER L TRUST

253011350 LUKOVSKY
PET L TRUST

253011340 LUKOVSKY
PETER L TRUST

252003180
CHOPP
CLARE A

252003240

SHERIDAN
RONALD
FORD

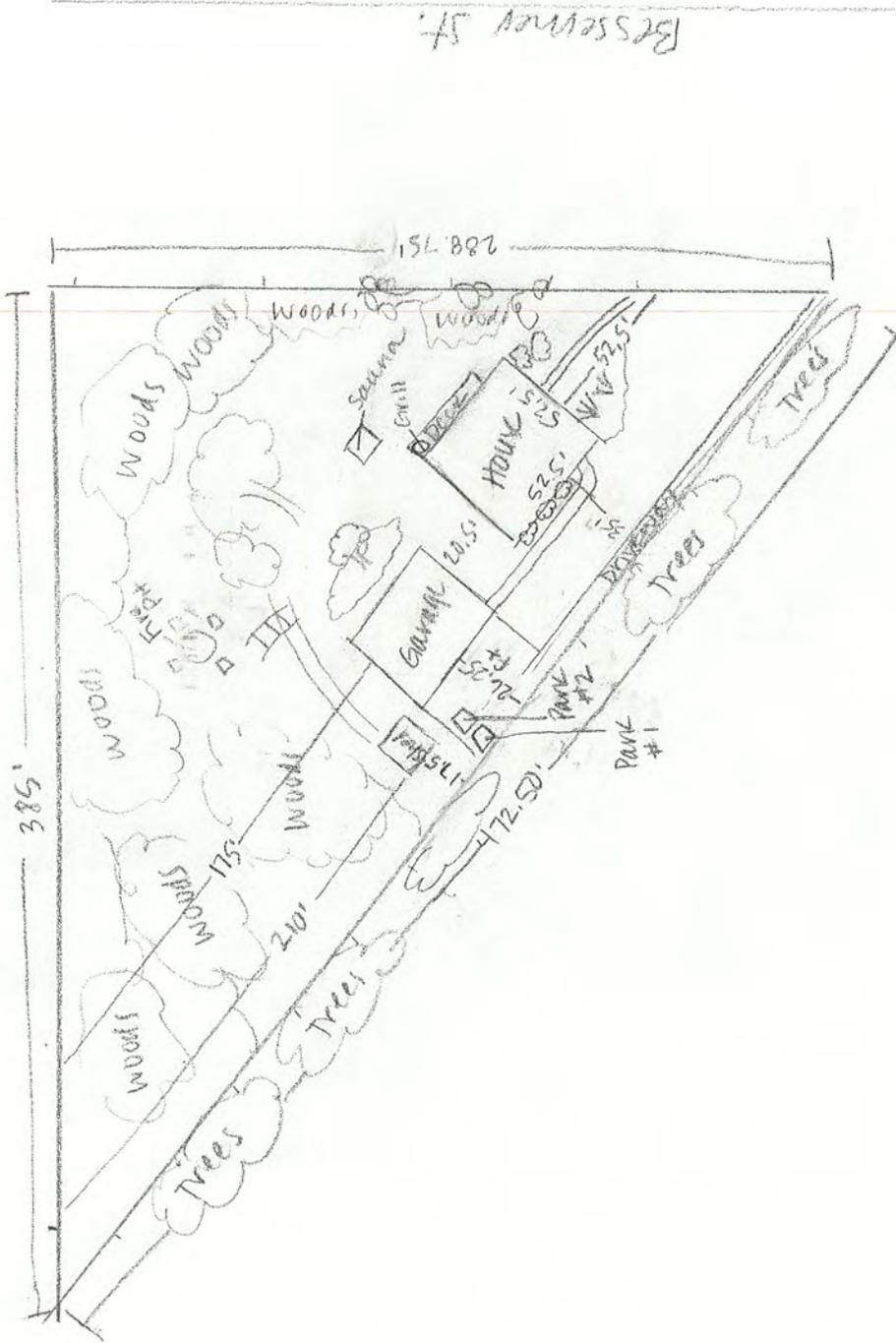
8427
GRAND
AVE

252003240



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Survey | Site Plan



Grand Avenue



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Planning & Economic Development Department

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 Duluth, Minnesota 55802

218-730-5580
 planning@duluthmn.gov

File Number	PL 21-137	Contact	Kyle Deming	
Type	Special Use Permit for Self-Service Storage Facility	Planning Commission Date	January 11, 2022	
Deadline for Action	Application Date	November 9, 2021	60 Days	January 8, 2022
	Date Extension Letter Mailed	November 24, 2021	120 Days	March 9, 2022
Location of Subject	Former K-Mart store at 5710 Grand Ave. (Spirit Valley)			
Applicant	Chadco of Duluth, LLC	Contact	Brittany Oliver	
Agent	CMRA, LLC	Contact	Beth Wentzlaff	
Legal Description	See attached Land Title Survey			
Site Visit Date	December 16, 2021	Sign Notice Date	December 28, 2021	
Neighbor Letter Date	December 22, 2021	Number of Letters Sent	68	

Proposal

A special use permit for a combination self-service storage facility, and retail showroom, installation facility, outdoor display and storage for U-Haul.

Recommendation

Staff recommends that the Planning Commission deny the application for a Special Use Permit based on the findings described fully in the Review and Discussion section and the Staff Recommendation section.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	Mixed Use Commercial (MU-C)	Vacant former retail	Central Business - Secondary
North	Mid-Rise Community Shopping (F-3)	Commercial	Central Business - Secondary
South	Mixed Use Commercial (MU-C)	Retail center	Central Business - Secondary
East	F-3 and F-4 (Mid-Rise Community Mix)	Commercial	Central Business - Secondary
West	Mid-Rise Community Mix (F-4)	Commercial	Central Business - Secondary

Summary of Code Requirements

UDC Section 50-37.10. Special Use Permits: Planning Commission shall approve the planning review or approve it with modifications, if it is determined that the application is consistent with the comprehensive plan and complies with all applicable provisions of the UDC. The Commission may deny any application that would result in a random pattern of development with little contiguity to existing or programmed development or would cause anticipated negative fiscal or environmental impacts on the community.

UDC Section 50-9.3. Other Ordinances or Regulations: In the case of a conflict between any part of this Chapter and any other public law, ordinance, or regulation, the provisions that are more restrictive or that impose higher standards or requirements shall govern, unless state or federal law requires a different outcome.

UDC Section 50-20.3.L.2. Self-Service Storage Facilities use specific standards:

- (a) The use must be completely contained within an enclosed principal building;
- (b) Signage for this use is permitted as a commercial use in Sec. 50-27;
- (c) *(Not Applicable in MU-C)*
- (d) In the MU-C and MU-B districts:
 - i. The building shall be at least 350 feet from any single-family, two-family, or townhome, excluding any residential use or structure on the same property or within the same development;
 - ii. Access to storage units through a garage door, roll up door, or loading dock may only be provide from the rear or side of the structure;
 - iii. In addition to design standards that may be required in Sec 50-30, these facilities shall provide:
 - 1. For any building frontage facing and located within 60 feet of a public street or public right of way, or facing a parking area of greater than 25 parking spaces, the building frontage shall consist of a minimum of 60' of building depth of occupied space over no less than 66% of the building frontage. The frontage of such buildings shall be used for active, customer-facing commercial activities permitted in the zone district per table 50-19.8, and shall not be used for warehouse or self-storage uses;
 - 2. A minimum of 65 percent of the front and 25 percent of the side façade, between two and eight feet above the sidewalk or ground surface, must consist of transparent, non-reflective windows, and a minimum of 25 percent of the windows shall have views directly into and out of the ground floor occupied space;
 - 3. At least 50 percent of the wall surface area of any front or side façade, excluding window surfaces, shall be faced with brick or split-block materials. Exposed concrete masonry unit (CMU) construction is not permitted on those facades;
 - 4. Where compliance with the specific requirements of Section 50-20.3.L.2(d)iii is infeasible due to unique site or building conditions, an applicant may propose alternatives. The land use supervisor may approve, or may refer to the Planning Commission for consideration, any alternative proposal where an applicant demonstrates that compliance is not possible and the alternative proposal achieves substantially the same degree of building design and functional aesthetics as required in the provisions for this use.

UDC Sec. 50-8. Relationship to the Comprehensive Land Use Plan: A primary intent of this Chapter is to implement the goals and objectives of the comprehensive land use plan, as that plan may be amended by the council from time to time. The provisions of this Chapter will be interpreted liberally to achieve the goals and objectives of the comprehensive land use plan while remaining consistent with all applicable requirements of federal and state law.

Comprehensive Plan Governing Principle and/or Policies and Current History (if applicable):

Governing Principle #4 – Support economic growth sectors. This principle encourages growth in emerging and growing economic sectors to add economic, culture, and social diversity in small neighborhood hubs such as Spirit Valley. The proposed mini-storage warehouse facility will not support new economic activity in the neighborhood, but rather will result in a new location (to the many existing locations) for people from throughout the city or region to store goods and household items in small rental lockers. It will not support economic growth and will not add to economic activity, with the exception of new vehicle trips to and from the site for drop-off and pick-up of goods, which may result in increased sales of motor vehicle fuels.

Governing Principle #5 – Promote reinvestment in neighborhoods. This principle encourages investments that strengthens neighborhood commercial centers in a way that fits the neighborhood's character and avoids large-scale, non-neighborhood-based activity within the core of a neighborhood. The proposed changes to the existing big box structure are not the type of reinvestment in real property that will result in the type of business activity needed to support the core of the business district. Rather, it will likely attract trips and customers from outside the area who intend to store goods, and will not generate new economic activity in this area of the city. Business and community leaders' comments share this conclusion.

Governing Principle #9 – Support private actions that contribute to the public realm. This principle identifies the value of

site design in supporting or detracting from the surrounding public areas and private property. Specifically listed are factors such as building form and detailing, blank walls and the interface between parking and public sidewalks. This project does not provide the types of building and parking lot investments that contribute to the public realm.

Economic Development Policy #2, Strategy #1 – Prioritize redevelopment efforts in the Core Investment Areas (vibrant, walkable neighborhood centers). Encourage collaboration between existing businesses in individual Core Investment Areas to support increased business activity overall and to improve their aesthetic and social environments. This proposal in a Core Investment Area does not provide the level of increased business activity needed for a site of this size in the center of the business district. It does not adequately improve the aesthetics of the site to otherwise strengthen the pedestrian-oriented business district the community desires nor does it reflect the city’s and the neighborhood’s priorities, which have been long planned. Business and community leader comments share this conclusion.

Housing Policy #1 – Increase density in and around Core Investment Areas, Strategy #3 – Explore opportunities to increase amenities to create livable and walkable neighborhoods. This project results in a vehicle-oriented business in the center of the Core Investment Area and does not increase opportunities for people seeking to access walkable sites or seeking to support other business activities in and near the neighborhood.

Urban Design Strategy #9 – Building and other structural elements along major streets or corridors should be designed in such a way as to emphasize streets as identifiable gateways and neighborhood centers. This project does not improve the connection between the street and private interior space due to the lack of business activity in areas abutting public sidewalks.

Future Land Use – Central Business – Secondary – An area adjacent to and supporting the central business primary area or a stand-alone area providing a similar mix of destination land uses but at a lower intensity than the primary central business area. Includes mixed regional and neighborhood retail, employment centers, public spaces, medium density residential, and public parking facilities. Medium densities; multi-story and mixed-use buildings are encouraged. Form-based guidelines, pedestrian-oriented design with limited off-street parking required, but with loading facilities required.

History: Site was originally developed in the late 1800s with traditional commercial buildings facing Grand Ave., similar to what is found on the north side of the street today, with the difference being that the traditional commercial buildings had connectivity to the street versus today’s design which is a tall, blank concrete block wall facing Grand Avenue. A railroad with sidings was located approximately 180 feet south of Grand Ave. behind those businesses. The railroad was subsequently removed and underlying streets and alleys were vacated in preparation for the K-Mart store and parking lot, which were constructed in 1991. The store closed in 2018.

Review and Discussion Items and Recommended Staff Findings

- 1) Applicant is requesting a special use permit for an 86,332 sq. ft. combination self-storage facility and retail commercial facility for U-Haul company operations which includes approximately 82,000 sq. ft. of self-storage, a 2,900 sq. ft. showroom, a 1,460 sq. ft. drive-in load/unload area, and an area for installation of vehicle towing accessories. The 1.9-acre exterior area consists of 120 parking stalls, some of which will be used for rental vehicle and trailer storage, equipment shunting, and a loading dock at the rear of the building.
- 2) The applicant is proposing to install windows and doors on the north and east walls of the building, to replace building and parking lot lights, to add trees to the parking lot and loading dock area, and to screen the trash/recycling area.
- 3) The proposed development is situated on a 3.92-acre parcel located along Grand Ave. between 57th Ave. W. and Spirit Dr. The Spirit Valley shopping center is attached to the south wall of the building and the parking lots of the two properties are linked.
- 4) The proposed redevelopment is an eligible special use in an MU-C zone pursuant to Section 50-19.8 if it complies with the standards of Section 50-20.3.L.2.
- 5) Pursuant to Section 50-9.3 the entire development must comply with the requirements of Section 50-20.3.L.2.
- 6) Section 50-20.3.L.2. (Use Specific Standards) Self-Service Storage Facility (see Summary of Code Requirements above).
 - a) requires that the “use must be completely contained within an enclosed principal building.” While the self-storage spaces for rental are within the existing building as are related showroom, elements of the use including vehicle accessory installation, and loading/unloading spaces as well as vehicles and trailers for rental are to be stored outside near the Grand Ave. sidewalk. This use violates the requirements of Section 50-20.3 L.2(a). This type of outdoor storage is violative of the directives of the adopted comprehensive plan, which calls for master planned sites within Core

Investment Areas, architectural guidelines to ensure adherence to neighborhood design standards, and a reduction in 'strip development' such as would be increased through approval of this proposal (Imagine Duluth Comprehensive Plan, Page TO-8).

b) Signs. Applicant's detail drawings and calculations of sign area for each wall are within the limits of Section 50-27 for wall signs for a commercial use in a MU-C zone. However, other features shown on the facades may fall under the UDC definition of "sign," such as any images of storage unit doors, which would count toward the maximum sign area allowed. The proposed signage would not be consistent with the comprehensive plan directive to enhance the gateway characteristics of Core Investment Areas, and this prominent site, including the proposed building colors which appear designed to allow the entire building to serve as a "sign," does not adhere to the intent for neighborhood-focused improvements within the city (Imagine Duluth Comprehensive Plan, page TO-8).

c) Section 50-20.3.L.2(d).i. requires a 350-foot setback from residential uses. The self-storage facility is located 170 feet from many adjacent residential structures (the closest being 317 N. 58th Ave. W.). The proposed project is violative of the requirements of Section 50-20.3.L.2(d).i. Furthermore, the application would not be eligible for a variance from this requirement of the Code in that any such variance would constitute a use variance under Minnesota Statute 462.357 Subdivision 6, which states in part: *"The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located."* The proposed use is not allowed under the zoning ordinance for this location because of its adjacency to residential properties, and no such use variance could be statutorily permissible under existing law.

d) Section 50-20.3.L.2(d).ii. requires that access to storage units through garage doors, roll-up doors or loading docks may only be provided from the rear or side of the structure. The facility is proposed to be constructed so that storage units are accessed via two roll-up doors on the front (east) side of the building, which is prohibited under the use-specific standards for this use. Therefore, the proposal is violative of Section 50-20.3.L.2.(d)ii.

e) Section 50-20.3.L.2(d).iii.1. requires that, for any building fronting on a parking area of greater than 25 parking spaces, 66% of the building frontage to a depth of at least 60 feet shall be active, occupied customer-facing commercial space. Approximately 60 feet of the front (east) side of the building facing the parking area consists of active space with windows, which is far less than the 235 feet required. Therefore, the special use permit application is violative of the requirements of Section 50-20.3.L.2(d).iii.

f) Section 50-20.3.L.2(d).iii.2. requires that a minimum of 65% of front and 25% of side walls between two and eight feet above the sidewalk or ground surface must consist of transparent, non-reflective windows and a minimum of 25% of the windows have views directly into and out of the ground floor occupied space. The front (east) side of the building does not provide the required transparency. Therefore, the proposal is violative of Section 50-20.3.L.2(d).iii.2.

g) Section 50-20.3.L.2(d).iii.3. requires that that front and side façade shall be more than 50% (excluding windows) brick or split-block materials. The front (east) and side (Grand Ave.) facades of the existing building are currently more than 50% split-block material. Plans submitted show replacing some of the split-block material with windows and doors for both customer and vehicle entrance. A final calculation has not been done to determine if the modified building complies with this requirement.

h) Alternative design proposal (Section 50-20.3.L.2(d).iii.4.) The applicant has not formally requested consideration of an alternative design, nor have they identified how the proposed design "achieves substantially the same degree of building design and functional aesthetics" as UDC requirements.

7) Section 50-23 (Connectivity and Circulation). The project shows a sidewalk that connects the front of the building to the Grand Ave. sidewalk and sidewalks that continue along the front of the Spirit Valley shopping center. The proposed use does not enhance connectivity through the site, and introduces new auto-oriented activities to the site and the neighborhood, which will negatively impact connectivity and circulation within the site and around the site, including on Grand Avenue and on other adjacent areas.

8) Section 50-24 (Parking and Loading). The showroom (retail) requires 9 stalls, the self-service storage requires 25 stalls, and the warehouse requires 21 stalls for a total of 55 stalls required. The site plan shows 115 parking stalls some of which will be occupied by U-Haul rental vehicles and trailers. There is no reduction in impervious surfaces proposed, and the applicant instead proposes to use the property for outdoor storage and display of rental vehicles and other for-rent items associated with the use.

9) Section 50-25 (Landscaping and Tree Preservation). A redevelopment project of this scope on a site of this size exceeding 75% of the value of the existing building requires compliance with landscaping provisions of the UDC. The applicant has provided a site plan showing the addition of trees in the Grand Ave. and Spirit Dr. street rights of way and new trees in the parking lot interior. The applicant would require City Engineer and City Forester permission to install trees in the street right of way and the City Engineer has commented that there may be limited space in which to locate them given existing trees, street lights, and a 3 inch gas main. The applicant has not proposed acceptable adjustments to

the design of the rights-of-way to accommodate the use, nor to ensure the survival of the trees or other landscaping items that would be needed to support the UDC requirements for the site. It is anticipated that the trees, based on current design, may have high mortality rates and would not thrive. Additional landscaping required by the project would need to be evaluated at time of building permit application. It appears that there would be adequate space for this landscaping as the site currently has 115 parking stalls and only 55 stalls are required; however, the design for the site has not considered alternative plans for use of the site that could support compliance with the UDC and intent of the comprehensive plan for improved landscaping in this neighborhood area.

- 10) Section 50-26 (Screening, Walls and Fences). The site plan shows a new refuse container enclosure to meet UDC requirements is planned as well as landscaping at the loading dock. The refuse container is shown in the Spirit Dr. street right of way. The City Engineer has commented that the refuse container must be located out of the street right of way as the proposed location conflicts with utilities and sight lines for driveway access. The application therefore does not comply with the requirements of Section 50-26. No containers may be placed in rights-of-way without obtaining a Concurrent Use Permit from the city.
- 11) Section 50-29 (Sustainability Standards). Typically inapplicable to reuse of an existing building. The provisions state:
 50-29.1 Applicability. In order to promote sustainable development, all new residential development proposals containing three or more units, and all non-residential development with a gross floor area of 10,000 square feet or more, shall be required to comply with the provisions of this Section 50-29. (Ord. No. 10044, 8-16-2010)
 50-29.2 Points required. Each new development shall be required to achieve at least a minimum number of points from the menu of options shown in Table 50-29-1: B. Non-residential development minimum requirements. 1. Non-residential development with 10,000 to 25,000 square feet: 3 points. 2. Non-residential development with a total square footage of more than 25,000 square feet: 4 points;
- 10) Section 50-30 (Building Design Standards). Not applicable.
- 11) Section 50-31 (Exterior Lighting). A redevelopment project of this scope on a site of this size exceeding 25% of the value of the existing building requires compliance with exterior lighting provisions of the UDC. The photometric plan provided shows a maximum light level at the property line that exceeds the UDC limit as well as a maximum/minimum light ratio that exceeds the UDC limit. The application does not comply with the requirement of Section 50-31.
- 12) Several comments were received from the West Duluth Business Club (WDBC), Irving Rec and Events Assoc., Inc., and a local business.
- a) Per their Sept. 9, 2021 letter (attached), the WDBC met with U-Haul and their real estate representatives to learn about the project, but ultimately voted unanimously to not support the zoning request after an informal survey of local businesses and community members. The WDBC is working to develop an image for the area as a mixed-use or retail area supportive of entrepreneurs and feel there are better locations for U-Haul in the West Duluth area.
 - b) Per their Nov. 1, 2021 letter (attached), Irving Rec and Events Assoc. is opposed to U-Haul to locating at this site because plans for the business district include retail, office space, and mixed use development. They would support U-Haul locating in one of the western industrial parks.
 - c) Letter (attached) from the owner and operator of North Port Tattoo stating that U-Haul locating at the site would do more harm than good because of the scale of the operation. They believe the area has the potential to become a very boutique, foot-traffic center for small business commerce.
 - d) Per their Dec. 30, 2021 email the WDBC (attached) affirming that their board does not support the U-Haul project and that they “strongly believe that most local residents and businesses do not support it either.”
 - e) Per a Dec. 30, 2021 email (attached), Tom Bergum (Solutions Insurance Agencies) does not have an issue with U-Haul moving in.
 - f) Per a Dec. 31, 2021 email (attached), Kathleen Panger is “not for a U-Haul at all, and sees no benefit to western Duluth at all.”
 - g) Jan. 2, 2022 email (attached) from RaeAnn Hamlin (Hamlin Music) stating “The initial designed use of this property was to provide a shopping area for the citizens of West Duluth . . . and beyond. Over the years it attracted people for that very reason. Although times have changed the need for viable, attractive businesses in this area of Duluth has not. We need to prioritize to encourage people to be in the West Duluth area. Truck and Storage are not appropriate for this space.”
- 13) While the project as proposed does reuse an existing building, consistent with Comprehensive Plan Governing Principle #1, the project is inconsistent with multiple other Comprehensive Plan Principles, Policies, and Strategies as evaluated in in the previous section of this report.

Staff Recommendation

Based on the above findings, Staff recommends that Planning Commission act to adopt the findings below and the Recommended Staff findings identified in the Review and Discussion section of this report, and to deny the special use permit for the following reasons:

- 1) The proposed project does not meet the following Use Specific Standards for Self-Service Storage Facilities in Sec. 50-20.3.L.2:
 - a) The proposed facility cannot comply with the required 350 foot setback to residential property, and the use is therefore not a permitted use, even if a special use permit were granted, in this location.
 - b) The proposed facility does not meet the UDC requirement related to location of roll-up doors. The facility is designed so that storage units are accessed via two roll-up doors on the front (east) side of the building, which is not a permissible location.
 - c) The proposed facility does not provide the required active and occupied interior spaces along the east and north sides of the building.
 - d) The proposed facility does not provide the required level of transparency along the east side of the building.
- 2) The proposed project is inconsistent with multiple Comprehensive Plan Principles, Policies, and Strategies more fully identified in the Review and Discussion and Comprehensive Plan sections of this report.

NOTES CORRESPONDING TO SCHEDULE B

AS PER COMMITMENT NO. 01040-23411, DATED JUNE 15, 2020.

- 10. The following appears as recital on Certificate of Title No. 330992.0 to Parcel 1 pursuant to Order and Decree of Registration filed November 21, 2013 as Document No. 938854 (Torrens): SUBJECT to an easement in favor of the public for slopes, as such easement was condemned by City of Duluth in certain condemnation proceedings, the award in which proceeding bearing date October 25, 1920, was recorded in the office of said Register of Deeds, on December 1, 1920, in Book 19 of Miscellaneous, on page 553. (NOT PLOTTED BOOK AND PAGE HYPERLINK NOT AVAILABLE)
11. The following appears as recital on Certificate of Title No. 330992.0 to Parcel 1 pursuant to Order and Decree of Registration filed November 21, 2013 as Document No. 938854 (Torrens): That part of Lot 2 formerly described as Lots 15 and 16, Block 23, West Duluth First Division is SUBJECT to the rights of Chadoo of Duluth, a Minnesota limited partnership, and Walgreen Co, an Illinois corporation, arising from that certain memorandum of lease dated December 3, 1982, filed in the office of the County Recorder as Document No. 356163. (NO PLOTTABLE INFORMATION)
12. The following appears as recital on Certificate of Title No. 330992.0 to Parcel 1 pursuant to Order and Decree of Registration filed November 21, 2013 as Document No. 938854 (Torrens): That part of Lot 2 formerly described as Lot 10, Block 23, West Duluth First Division is SUBJECT to easements and servitudes as are incident to the reservation of the mineral estate by the State of Minnesota effected by deed recorded in the office of the Register of Deeds in Book 785 of Deeds, page 456. (Mineral title is not shown further) (NOT PLOTTED, BOOK AND PAGE HYPERLINK NOT AVAILABLE)
13. The following appears as recital on Certificate of Title No. 330992.0 to Parcel 1 pursuant to Order and Decree of Registration filed November 21, 2013 as Document No. 938854 (Torrens): Lot 2 is SUBJECT to a ratification agreement recorded in the office of the County Recorder, as Document No. 374575 which ratifies a lease agreement not identified by a document number and runs in favor of Walgreen Co, an Illinois corporation. (NO PLOTTABLE INFORMATION)
14. The following appears as recital on Certificate of Title No. 330992.0 to Parcel 1 pursuant to Order and Decree of Registration filed November 21, 2013 as Document No. 938854 (Torrens): SUBJECT to a subordination agreement recorded in the office of the County Recorder, as Document No. 402271 which subordinates rights of the City of Duluth in Document 372753. (NO PLOTTABLE INFORMATION)
15. The following appears as recital on Certificate of Title No. 330992.0 to Parcel 1 pursuant to Order and Decree of Registration filed November 21, 2013 as Document No. 938854 (Torrens): SUBJECT to a memorandum of lease recorded in the office of the County Recorder, as Document No. 479804. (NO PLOTTABLE INFORMATION)
16. The following appears as recital on Certificate of Title No. 330992.0 to Parcel 1 pursuant to Order and Decree of Registration filed November 21, 2013 as Document No. 938854 (Torrens): SUBJECT to an easement in favor of the public for highway purposes as such easement was condemned by City of Duluth in certain condemnation proceedings, the award in which proceeding bearing date October 25, 1920, was recorded in the office of the Register of Deeds on October 29, 1926, in Book 2 of Plots on page 179 thereof.
17. The following appears as recital on Certificate of Title No. 330992.0 to Parcel 1 pursuant to Order and Decree of Registration filed November 21, 2013 as Document No. 938854 (Torrens): SUBJECT to resolution of the Duluth City Council recorded in the office of the County Recorder, as Document No. 518080 vacating a portion of Bristol Street subject to retention of a 66 foot utility easement over, under and across the portion of Bristol Street vacated. (PLOTTED AND SHOWN HEREON)
18. The following appears as recital on Certificate of Title No. 330992.0 to Parcel 1 pursuant to Order and Decree of Registration filed November 21, 2013 as Document No. 938854 (Torrens): SUBJECT to amendment to special assessment agreement recorded in the office of the County Recorder, as Document No. 518086 which amends a special assessment not identified by document number dated February 10, 1984 between the City of Duluth and itself. (NO PLOTTABLE INFORMATION)
19. The following appears as recital on Certificate of Title No. 330992.0 to Parcel 1 pursuant to Order and Decree of Registration filed November 21, 2013 as Document No. 938854 (Torrens): SUBJECT to subordination, nonantenuation and attornment agreement recorded in the office of the County Recorder, as Document No. 518086 which subordinates a mortgage to Kmart Corporation, a Michigan corporation, formerly known as S S Kresge Company, tenant, with Valley Center Limited Partnership (as assigned to Chadoo of Duluth Limited Partnership), landlord, dated July 19, 1989, not identified by document number to a mortgage between Chadoo of Duluth Limited Partnership, mortgagee, and First Bank North, National Association, mortgagor not identified by document number. (NO PLOTTABLE INFORMATION)
20. The following appears as recital on Certificate of Title No. 330992.0 to Parcel 1 pursuant to Order and Decree of Registration filed November 21, 2013 as Document No. 938854 (Torrens): SUBJECT to resolution of the Duluth City Council recorded in the office of the County Recorder, as Document No. 533535 vacating part of Bristol Street and retaining a 66 foot easement over, under and across the vacated area and which resolution of the Duluth City Council is dated September 30, 1991. (NOT PLOTTED, VACATED STREET AND RETAINED EASEMENT FALL NORTHEAST OF SUBJECT PROPERTY)
21. The following appears as recital on Certificate of Title No. 330992.0 to Parcel 1 pursuant to Order and Decree of Registration filed November 21, 2013 as Document No. 938854 (Torrens): Lot 2 is TOGETHER WITH a restrictive covenant recorded in the office of the County Recorder, as Document No. 533729 encumbering other land in favor of Chadoo of Duluth Limited Partnership, a Minnesota limited partnership. (BLANKET IN NATURE, SEE DOCUMENT FOR DETAILS)
22. The following appears as recital on Certificate of Title No. 330992.0 to Parcel 1 pursuant to Order and Decree of Registration filed November 21, 2013 as Document No. 938854 (Torrens): SUBJECT to mortgage, assignment of rents and security agreement recorded in the office of the County Recorder, as Document No. 967630 and assignment of said mortgage recorded as Document No. 1000562, which mortgage, etc., by reason of said assignment now runs in favor of LaSalle Bank National Association, in its capacity as trustee for the registered holder of LB-US Commercial Mortgage Trust 2005-C2, Commercial Mortgage Pass-Through Certificates, Series 2005-C2 and secures the principal sum of \$6,755,000.00. Note: A Satisfaction of Mortgage is recorded in the office of the County Recorder (Abstract records) as on May 21, 2005 as Document No. 1260911. (NO PLOTTABLE INFORMATION)
23. Memorandum of Lease in favor of ZRC Plaza, a Wisconsin general partnership, dated March 4, 1983, filed March 7, 1983 as Document No. 449946.0. Assignment of Lease to Marine Bank National Association dated March 3, 1983, filed March 7, 1983 as Document No. 449946.0. Note: The above document appears to have expired by its own terms, however, the Company shall not be responsible for bringing or for paying the cost of, any proceeding subsequent or other action that may be required in order to cause the memorial to be deleted from any future Certificate(s) of Title for the Land. (NO PLOTTABLE INFORMATION)
24. Resolution 83-0940 recorded January 20, 1984 in the office of the County Recorder as Document No. 371587 (Abstract) and filed in the office of the Registrar of Titles as Document No. 456785 (Torrens)(as to Parcels 1 and 2) (NOT PLOTTED, VACATED STREETS ARE UNDERLYING OF THE PLAT OF SPIRIT VALLEY DIVISION)

ALTA/NSPS LAND TITLE SURVEY

SURVEYOR'S CERTIFICATION

TO: Amerco Real Estate Company, a Nevada Corporation; First American Title Insurance Company: THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 2, 3, 4, 5, 6a, 7a, 7b(1), 8, 9, 13, 16, 17, AND 19 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON SEPTEMBER 20, 2021

KALEB KADELBACH, MN REG. NO. 57070 DATE FIELD SURVEY: KALEB KADELBACH, CREW CHIEF

For inquiries, questions or concerns about this survey contact MFeldbusch@ussurveyor.com or call 1-800-867-8783 ext. 208



PREPARED FOR: PROJECT LOCATION: ST. LOUIS COUNTY, STATE OF MINNESOTA

Amerco PROJECT ADDRESS: 5710 GRAND AVENUE DULUTH, MN 55807 PROJECT TYPE: ALTA/NSPS LAND TITLE SURVEY

Copyright 2020 U.S. Surveyor. This drawing is the property of U.S. Surveyor. This drawing, style and format is protected by Copyright and all rights are reserved. The use of this drawing style and format is strictly prohibited without the written consent and permission of U.S. Surveyor. SHEET 1 OF 2 MICHAEL A. STANG, PLS MINNESOTA REGISTRATION NO. 52591 JOB NUMBER: S554947

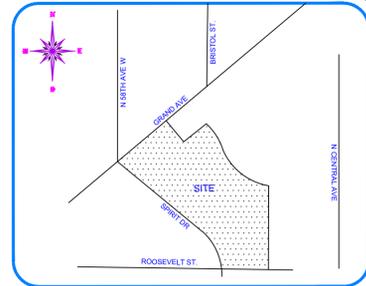
- 25. Memorandum of Lease in favor of Walgreen Co, an Illinois corporation dated December 3, 1982, filed February 7, 1984 as Document No. 457089 (Torrens) Ratification Agreement dated February 14, 1984, filed March 30, 1984 as Document No. 458142.0 (Torrens). The above Documents appear to be shown as Recitals on Certificate of Title No. 330992 as County Recorder Document Nos. 356163 and 374575. Note: The above documents appear to have expired by their terms, however, the Company shall not be responsible for bringing or for paying the cost of, any proceeding subsequent or other action that may be required in order to cause the memorial/recital to be deleted from any future Certificate(s) of Title for the Land. (NO PLOTTABLE INFORMATION)
26. Access and Utility Easement as reserved by the City of Duluth in deed dated February 9, 1984, filed February 17, 1984 in the office of the County Recorder as Document No. 372745 (Abstract), and in the office of the Registrar of Titles as Document No. 457274 (Torrens). (PLOTTED AND SHOWN HEREON)
27. Special Assessment Agreement dated February 10, 1984, recorded February 17, 1984 in the office of the County Recorder as Document No. 372747 (Abstract) and in the office of the Registrar of Titles as Document No. 457276.0 (Torrens) (Abstract). Amendment to Special Assessment Agreement dated August 29, 1990, recorded April 4, 1991 in the office of the County Recorder as Document No. 518085 (Abstract) and filed in the office of the Registrar of Titles as Document No. 533067.0 (Torrens). (NO PLOTTABLE INFORMATION)
28. Memorandum of Lease between Valley Center Limited Partnership, a Minnesota limited partnership, and Kmart Corporation, a Michigan corporation dated July 19, 1989, recorded July 26, 1989 in the office of the County Recorder as Document No. 479804, and filed April 4, 1991 in the office of the Registrar of Titles as Document No. 533049 (Torrens). Note: Lease term appears to be for 25 years plus ten options for 5 year extensions. (as to Parcels 1, 2 and 3) (NO PLOTTABLE INFORMATION)
29. Resolution 90-0943 filed April 4, 1991 in the office of the County Recorder as Document No. 518079 (Abstract)-Shown as a Recital on Certificate No. 330992.0 and in the office of the Registrar of Titles as Document No. 533061 (Torrens). (as to Parcels 1, 2 and 3) (PLOTTED AND SHOWN HEREON)
30. Resolution 90-0824 filed April 4, 1991 in the office of the County Recorder as Document No. 518080 (Abstract)-Shown as a Recital on Certificate No. 330992.0 and in the office of the Registrar of Titles as Document No. 533062 reserving the following: a. 66 foot utility easement over Bristol Street. (FALLS NORTHEAST OF SUBJECT PROPERTY) b. Utility easement over the Eastern 14 feet of Lots 1 through 16, Block 10, West Duluth First Division. c. 20 foot utility easement over, under, and across Lot 3, Block 4, Spirit Valley Division described as follows: Commencing at the most northerly corner of said Lot 3, thence southeasterly along the northeasterly line of said Lot 3, a distance of 25.88 feet to the beginning of the center line to be described; thence deflect 45 degrees 56 minutes 54 seconds to the right in a southerly direction a distance of 104.92 feet to the southwesterly line of said Lot 3, and said line here terminating. The side lines of said easement are prolonged or shortened to terminate on the northeasterly and southwesterly lines of said Lot 3. d. 20 foot utility easement over, under and across those parts of Lots 2 and 3, Block 3, and that part of Lot 4, Block 4, Spirit Valley Division including the center center line to be described; thence continue westerly, along the last described line, a distance of 158.03 feet, thence deflect 30 degrees 36 minutes 36 seconds to the right in a northwesterly direction a distance of 36.49 feet, thence deflect 59 degrees 20 minutes 46 seconds to the right in the northerly direction a distance of 238.74 feet to the southeasterly right of way line of Grand Avenue and said line here terminating. Except that part lying in Lot 3, Block 4, Spirit Valley Division. (as to Parcels 1, 2 and 3) (PLOTTED AND SHOWN HEREON)
31. Resolution 91-0267 filed April 4, 1991 in the office of the County Recorder as Document No. 518081 (Abstract) and in the office of the Registrar of Titles as Document No. 533063 (Torrens) reserving the following: Easement for underground placement of utilities within all of Lot 2, Block 4; the Northeasterly 20 feet of the Southeasterly 20 feet of Lot 3, Block 4; and that portion of alley between Blocks 3 and 4 and utility easement in Lot 1, Block 3, described as the 20 feet thereof lying Southwesterly of the Southwest line of Lot 2, Block 4, as extended 3 feet Southwesterly from the South corner of said Lot 2, Block 4, Spirit Valley Division. (as to Parcels 1, 2 and 3) (VACATED ALLEY PLOTTED AND SHOWN HEREON)
32. Amendment to Mortgage dated February 20, 1991, filed April 4, 1991 as Document No. 533075 appears as a memorial on Certificate of Title No. 330992. Note: The above document appears to no longer affect the property, however, the Company shall not be responsible for bringing or for paying the cost of, any proceeding subsequent or other action that may be required in order to cause the memorial to be deleted from any future Certificate(s) of Title for the Land. (NO PLOTTABLE INFORMATION)
33. Matters resulting from Certificate of Title No. 330992.0 showing Chadoo of Duluth Limited Partnership, a Minnesota limited partnership, as the registered owner. Note: Quit Claim Deed and Assignment of Leases from Chadoo of Duluth Limited Partnership, a Minnesota limited partnership, to Chadoo of Duluth, LLC, a Minnesota limited liability company, dated December 16, 2004, filed December 20, 2004 as Document No. 967629 is shown as a memorial on said Certificate of Title. (NO PLOTTABLE INFORMATION)
34. Mortgage and Security Agreement and Fixture Financing Statement and Assignment of Rents by Chadoo of Duluth, LLC, a Minnesota limited liability company, in favor of Members Cooperative Credit Union dated April 10, 2015, recorded in the office of the County Recorder on April 22, 2015 as Document No. 125896. (Abstract) and filed in the office of the Registrar of Titles as Document No. 956331 (Torrens) in the original amount of \$5,500,000.00. Partially released by Partial Release of Mortgage and Assignment of Rents and Leases dated July 10, 2019, recorded July 17, 2019 as Document No. 1358762 (Abstract). (as to Parcels 1, 2 and 3) (NO PLOTTABLE INFORMATION)
35. Collateral Assignment of Rents and Leases by Chadoo of Duluth, LLC, a Minnesota limited liability company, in favor of Members Cooperative Credit Union dated April 10, 2015, recorded in the office of the County Recorder on April 22, 2015 as Document No. 1258962 (Abstract) and filed in the office of the Registrar of Titles as Document No. 956332 (Torrens). Partially released by Partial Release of Mortgage and Assignment of Rents and Leases dated July 10, 2019, recorded July 17, 2019 as Document No. 1358763 (Abstract). (NO PLOTTABLE INFORMATION)
36. Subordination, Attornment and Non-Disturbance Agreement among Members Cooperative Credit Union, as lender, Kmart Corporation, a Michigan corporation, as tenant, and Chadoo of Duluth, LLC, a Minnesota limited liability company, as landlord, dated April 10, 2015, recorded June 11, 2015 in the office of the County Recorder as Document No. 1262314 (Abstract) and filed in the office of the Registrar of Titles as Document No. 958288.0 (Torrens). (as to Parcels 1, 2, 3-includes additional land) (NO PLOTTABLE INFORMATION)
37. Mortgage and Security Agreement and Fixture Financing Statement and Assignment of Rents by Chadoo of Duluth, LLC, a Minnesota limited liability company, in favor of Members Cooperative Credit Union dated April 30, 2018, recorded in the office of the County Recorder on May 10, 2018 as Document No. 1332619 (Abstract) and filed in the office of the Registrar of Titles as Document No. 997874 (Torrens) in the original amount of \$405,600.00. Partially released by Partial Release of Mortgage and Assignment of Rents and Leases dated July 10, 2019, recorded July 17, 2019 as Document No. 1358763 (Abstract). (as to Parcels 1, 2, 3-includes additional land) (NO PLOTTABLE INFORMATION)
38. Collateral Assignment of Rents and Leases by Chadoo of Duluth, LLC, a Minnesota limited liability company, in favor of Members Cooperative Credit Union dated April 30, 2015, recorded in the office of the County Recorder on May 10, 2018 as Document No. 1332620 (Abstract) and filed in the office of the Registrar of Titles as Document No. 997875 (Torrens). Partially released by Partial Release of Mortgage and Assignment of Rents and Leases dated July 10, 2019, recorded July 17, 2019 as Document No. 1358763 (Abstract). (as to Parcels 1, 2, 3-includes additional land) (NO PLOTTABLE INFORMATION)
39. Easements shown and dedicated on the plat of Spirit Valley Division recorded November 30, 1987 in the office of the County Recorder (Abstract records) as Document No. 445648, and filed March 14, 2013 in the office of the Registrar of Titles (Torrens records) as Document No. 928092.0. Resolution 83-940 recorded January 20, 1984 in the office of the County Recorder as Document No. 371587 (Abstract) and filed in the office of the Registrar of Titles as Document No. 456785 (Torrens). Resolution 90-943 recorded April 4, 1991 in the office of the County Recorder as Document No. 518079 (Abstract) and filed in the office of the Registrar of Titles as Document No. 533061 (Torrens). (PLOTTED AND SHOWN HEREON) Resolution 91-0824 recorded April 4, 1991 in the office of the County Recorder as Document No. 518080 (Abstract) and filed in the office of the Registrar of Titles as Document No. 533062 (Torrens). (PLOTTED AND SHOWN HEREON) Resolution 91-0267 recorded April 4, 1991 in the office of the County Recorder as Document No. 518081 (Abstract) and filed in the office of the Registrar of Titles as Document No. 533063 (Torrens). (PLOTTED AND SHOWN HEREON) Resolution 91-0793 recorded November 8, 1991 in the office of the County Recorder as Document No. 533535 (Abstract). (FALLS NORTHEAST OF SUBJECT PROPERTY)
40. Easement as contained in Certificate in favor of the City of Duluth dated September 6, 1927, filed October 3, 1927 as Document No. 91344. (as to Parcels 2 and 3) (BLANKET IN NATURE)
41. Subject to the terms and conditions of an Easement Agreement dated May 16, 1990 between Thomas J. Olsch and Mary F. Olsch, husband and wife, individually as assigns and successors in interest to Kom-On-Inn, Inc., Kimberly Elder, single person and Curt Johnson Properties, Inc., as shown in Deed dated

NOTE: THIS SURVEY SHALL NOT BE USED WITH AN AFFIDAVIT OR LETTER OF ANY KIND FOR REUSE INCLUDING, BUT NOT LIMITED TO, FUTURE CLOSINGS, MORTGAGES, PLAT PLANS, CONTRIBUTION LANDS, OR ANY OTHER PURPOSES. THE FEDERAL COPYRIGHT ACT, DIGITAL MILLENNIUM COPYRIGHT ACT, TO COPY OR MODIFY THIS DRAWING BEYOND THE DATE AND TIME OF THE SURVEYOR'S ASSIGNED WORK, OR ANY PART THEREOF, WITHOUT THE WRITTEN CONSENT AND PERMISSION OF U.S. SURVEYOR. FLOOD DATA This property is in Zone X of the Flood Insurance Rate Map, Community Panel No. 2700300319E & 2700300328E, which has an effective date of 12/16/2015 and IS NOT in a Special Flood Hazard Area. Field surveying was not performed to determine this zone. An elevation certificate may be needed to verify this determination or apply for an amendment from the Federal Emergency Management Agency. IT IS THE CONTRACTORS RESPONSIBILITY TO LOCATE ALL UTILITIES, WHETHER SHOWN ON THIS SURVEY OR NOT PRIOR TO COMMENCEMENT OF WORK. THIS SURVEY HAS BEEN PREPARED USING AVAILABLE UTILITY DATA. THIS SURVEYOR DOES NOT MAKE STATEMENTS OF ACCURACY BASED UPON MAPS AND UTILITY LOCATES OF OTHERS.

ALTA/NSPS LAND TITLE SURVEY

- 42. Matters resulting from Certificate of Title No. 67311.0 appearing to describe an underlying portion of Lot 8, Block 4, Spirit Valley Division in the City of Duluth as the registered owner. Note: The following (a) and (b) appear to have been filed in error on another Certificate of Title: See Item 49 (a) and 49 (c). (a) Quit Claim Deed from the City of Duluth to Spirit Valley Landromat, a Minnesota partnership, dated March 26, 1991, recorded April 4, 1991 in the office of the County Recorder as Document No. 518066 (Abstract) and filed in the office of the Registrar of Titles as Document No. 533052 (Torrens). The legal description on the above deed is Lot 8, Block 4, Spirit Valley Division. (apparent torrens filing error); and (b) Quit Claim Deed from Valoree B. Hammond, as successor in interest to Spirit Valley Landromat, to Chadoo of Duluth Limited Partnership, a Minnesota partnership, dated March 27, 1991, recorded April 4, 1991 in the office of the County Recorder as Document No. 518067 (Abstract) and filed in the office of the Registrar of Titles as Document No. 533053 (Torrens). The legal description on the above deed is Lot 8, Block 4, Spirit Valley Division. (apparent torrens filing error) (NOT PLOTTED)
Additional Note: Quit Claim Deed and Assignment of Leases from Chadoo of Duluth Limited Partnership, a Minnesota limited partnership, to Chadoo of Duluth, LLC, a Minnesota limited liability company, dated December 16, 2004, filed December 20, 2004 as Document No. 967629 is shown as a memorial on said Certificate of Title. (NO PLOTTABLE INFORMATION)
43. The following appears as recital on Certificate of Title No. 335933.0 to part of Parcel 3 pursuant to Order and Decree of Registration filed July 7, 2015 as Document No. 959212 (Torrens): The aforescribed property is SUBJECT to mineral rights reserved by the State of Minnesota as more particularly appears in that certain deed recorded in Book 776 of Deeds page 265 in the office of the Registrar of Deeds. (as to part of Parcel 3, Mineral title not shown further) (BLANKET IN NATURE)
44. The following appears as recital on Certificate of Title No. 213821.0 to part of Parcel 3: Lot 13 is SUBJECT TO THE FOLLOWING: (a) An easement in favor of the public for sewers as such easement was condemned by City of Duluth, a Municipal corporation, in certain condemnation proceedings the plat in which bears date January 21, 1918 and was filed of record in the office of the Register of Deeds on February 4, 1918, in Book 18 of Miscellaneous on page 423 thereof. (b) an easement in favor of the public for highway purposes as such easement was condemned by City of Duluth in certain condemnation proceedings, the plat in which proceedings bears date March 15, 1926 and was filed of record in the office of the Register of Deeds on October 29, 1926, in Book 2 of Plots on page 179 thereof. (c) An easement in favor of the public for slopes and fills on Bristol Street as such easement was condemned by City of Duluth, a Municipal corporation, in certain condemnation proceedings, the plat in which proceedings bears date August 22, 1927 and was filed of record in the office of the Register of Deeds in Book 18 of Miscellaneous on page 423 thereof. (NO PLOTTABLE INFORMATION)
45. Order, Judgment and Decree in favor of the City of Duluth dated August 13, 1934, filed September 4, 1934 as Document No. 124972 (Torrens). (Abstract) and filed in the office of the Registrar of Titles as Document No. 528489 (Torrens). (AS TO PART OF PARCEL 3) (NO PLOTTABLE INFORMATION)
46. Petition For Condemnation by the Duluth Economic Development Authority dated December 5, 1989, recorded October 25, 1990 in the office of the County Recorder as Document No. 508986 (Abstract) and in the office of the Registrar of Titles as Document No. 528488 (Torrens). (As to part of Parcel 3) (NO PLOTTABLE INFORMATION)
47. Petition For Condemnation by the Duluth Economic Development Authority dated December 5, 1989, recorded October 25, 1990 in the office of the County Recorder as Document No. 508986 (Abstract) and in the office of the Registrar of Titles as Document No. 528488 (Torrens), and Order Granting Condemnation Petition dated March 26, 1990, recorded October 25, 1990 in the office of the County Recorder as Document No. 508987 (Abstract) and in the office of the Registrar of Titles as Document No. 528489 (Torrens). (as to Parcel 3) (NO PLOTTABLE INFORMATION)
48. Matters resulting from Certificate of Title Nos. 253831 and 253830 showing Chadoo of Duluth Limited Partnership, a Minnesota limited partnership, as the registered owner. Note: Quit Claim Deed and Assignment of Leases from Chadoo of Duluth Limited Partnership, a Minnesota limited partnership, to Chadoo of Duluth, LLC, a Minnesota limited liability company, dated December 16, 2004, filed December 20, 2004 as Document No. 967629 is shown as a memorial on the above said Certificates of Title. (NO PLOTTABLE INFORMATION)
49. Matters resulting from Certificate of Title No. 213821 showing Robert C. Jones and Anna M. Jones as the registered owners. Note: The following appear as memorials on the above Certificate of Title: (a) Contract for Deed by Robert C. Jones and Anna M. Jones, as vendor, and Bruce E. Doyle and Valoree B. Hammond, as vendee, dated June 6, 1978, filed September 8, 1978 as Document No. 415109 (Torrens). (b) Quit Claim Deed from Bruce E. Doyle and Valoree B. Hammond to Spirit Valley Landromat, a partnership, dated May 9, 1980, filed July 14, 1980 as Document No. 431572 (Torrens). (c) Quit Claim Deed from Spirit Valley Landromat, a partnership, to Valoree B. Hammond d/b/a Spirit Valley Landromat, dated February 3, 1989, filed February 7, 1989 as Document No. 508187 (Torrens). (d) Quit Claim Deed from the City of Duluth to Spirit Valley Landromat, a Minnesota partnership, dated March 26, 1991, recorded April 4, 1991 in the office of the County Recorder as Document No. 518066 (Abstract) and filed in the office of the Registrar of Titles as Document No. 533052 (Torrens). The legal description is Lot 8, Block 4, Spirit Valley Division. (apparent filing error) (e) Quit Claim Deed from Valoree B. Hammond, as successor in interest to Spirit Valley Landromat, to Chadoo of Duluth Limited Partnership, a Minnesota partnership, dated March 27, 1991, recorded April 4, 1991 in the office of the County Recorder as Document No. 518067 (Abstract) and filed in the office of the Registrar of Titles as Document No. 533053 (Torrens). The legal description on the above deed is Lot 8, Block 4, Spirit Valley Division. (apparent torrens filing error) (f) Warranty Deed from Robert C. Jones and Anna M. Jones to Valoree B. Hammond, individually and as successor in interest to Bruce E. Doyle, dated December 18, 1990, filed April 4, 1991 as Document No. 533054 (Torrens). (g) Warranty Deed from Valoree B. Hammond to Chadoo of Duluth Limited Partnership dated February 2, 1991, filed April 4, 1991 as Document No. 533055 (Torrens). (Includes Lot 8, Block 4, Spirit Valley Division) (h) Quit Claim Deed and Assignment of Leases from Chadoo of Duluth Limited Partnership, a Minnesota limited partnership, to Chadoo of Duluth, LLC, a Minnesota limited liability company, dated December 16, 2004, filed December 20, 2004 as Document No. 967629. (NO PLOTTABLE INFORMATION)
50. Resolution 91-0793 filed November 8, 1991 in the office of the County Recorder as Document No. 533535 (Abstract) vacating a portion of Bristol Street. The City of Duluth retains an easement for utilities. (as to Parcel 1) (NOT PLOTTED, FALLS NORTHEAST OF SUBJECT PROPERTY)

SEE SHEETS 2 OF 2 FOR DRAWING SURVEYOR NOTES 1. PER TABLE A ITEM 16, NO OBSERVABLE EVIDENCE OF EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS WITHIN RECENT MONTHS. 2. PER TABLE A ITEM 17, WE ARE NOT AWARE OF ANY CHANGES IN STREET RIGHT-OF-WAY PRESENTLY OR PROPOSED. 3. PER TABLE A ITEM 18, THERE WERE NO WETLAND MARKERS OBSERVED. 4. PROPERTY HAS PHYSICAL ACCESS TO AND FROM GRAND AVE., SPIRIT DR., AND ROOSEVELT ST., ALL BEING DULY DEDICATED PUBLIC RIGHT-OF-WAYS. 5. BASED ON OBSERVED EVIDENCE ONLY, THE SITE DOES NOT CONTAIN ANY CEMETERIES OR BURIAL GROUNDS. 6. ADJOINING OWNERSHIP INFORMATION SHOWN HEREON WAS OBTAINED FROM THE CITY OF ST. LOUIS COUNTY WEBSITE. OWNERSHIP INFORMATION IS SUBJECT TO REVISION UPON RECEIPT OF A TITLE SEARCH BY A TITLE INSURANCE COMPANY. 7. ALL STATEMENTS WITHIN THE CERTIFICATION, AND OTHER REFERENCES LOCATED ELSEWHERE HEREON, RELATED TO: UTILITIES, IMPROVEMENTS, STRUCTURES, BUILDINGS, PARTY WALLS, FENCINGS, EASEMENTS, SERVITUDES, AND ENCROACHMENTS, ARE BASED SOLELY ON ABOVE GROUND, VISIBLE EVIDENCE, UNLESS ANOTHER SOURCE OF INFORMATION IS SPECIFICALLY REFERENCED HEREON. 8. THERE ARE 352 STANDARD STRIPED PARKING SPACES AND 23 HANDICAPPED PARKING SPACES, FOR A TOTAL OF 375 STRIPED PARKING SPACES WITHIN SUBJECT PROPERTY. 9. THERE ARE 352 STANDARD STRIPED PARKING SPACES AND 23 HANDICAPPED PARKING SPACES, FOR A TOTAL OF 375 STRIPED PARKING SPACES WITHIN SUBJECT PROPERTY. 10. THE RECORD DESCRIPTIONS OF THE SUBJECT PROPERTY FORM A MATHEMATICALLY CLOSED FIGURE WITH NO GAPS, OR GORES. IMPROVEMENT NOTES THIS IS A LISTING OF OBSERVED IMPROVEMENTS THAT CROSS DEED LINES. STATEMENT OF OWNERSHIP OR POSSESSION IS NOT THE INTENT OF THIS LISTING. A1) NONE OBSERVED AT THE TIME OF THE SURVEY



VICINITY MAP NOT TO SCALE

LEGAL DESCRIPTION

Real property in the City of Duluth, County of St. Louis, State of Minnesota, described as follows: Parcel 1: Lots 1, 2 and 3, Block 3, Spirit Valley Division, and That part formerly described as that part of Lots 15 and 16, Block 10, WEST DULUTH FIRST DIVISION, which falls within the following described plat: Beginning at the Southeastern corner of said Lot 16, thence Nly along the S line of said Lot 16 for a distance of 125 ft to the SWly corner of said Lot 16, thence Nly along the Wly line of said Block 10 for a distance of 50 ft to the NWly corner of said Lot 15, thence deflect 111 degrees 48 minutes 05 seconds to the right and go 134.63 ft to the point of beginning and there terminating. (Torrens property)-Certificate of Title No. 330992.0 Parcel 2: That part of Lot 2, Block 4, Spirit Valley Division, St. Louis County, Minnesota, lying SWly of the following described plat: Beginning at the most Nly corner of Lot 3, Block 4, Spirit Valley Division; thence S 54° 58' 57" E along the NEly line of said Lot 3 and the SEly extension of said line, 170 feet and there ending, and all of Lots 3 through 8, inclusive, Block 4, Spirit Valley Division, St. Louis County, Minnesota. (Abstract property and Torrens property) Certificate of Title No. 67311.0 (as to a part of Lot 8) Parcel 3: Lots 1 through 13, Block 135, West Duluth Fifth Division, St. Louis County, Minnesota, except those parts platted as Spirit Valley Division, St. Louis County, Minnesota. (Abstract and Torrens property)- Certificates of Title Nos. 253831.0 (Lot 5), 253830.0 (Lots 6 & 7), 335933 (Lot 8), 213821.0 (Lot 11, part of Lot 12, and Lot 13) and 67311.0 (part of Lot 12).

SITE DATA

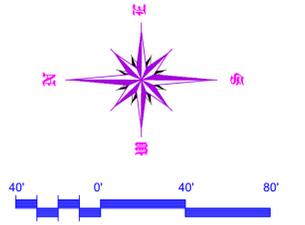
ZONING AND RESTRICTIONS SHOWN HEREON WERE OBTAINED BY A GENERAL REQUEST AT THE PUBLIC COUNTER OF THE LOCAL ZONING AUTHORITY. NO REPRESENTATION IS MADE FOR THE ACCURACY OR COMPLETENESS OF SAID THIRD PARTY INFORMATION. THIS FIRM IS NOT AN EXPERT IN THE INTERPRETATION OF COMPLEX ZONING ORDINANCES. COMPLIANCE IS BEYOND THE SCOPE OF THIS SURVEY. ANY USER OF SAID INFORMATION IS URGED TO CONTACT THE LOCAL AGENCY DIRECTLY.

- 1. ZONING= MU-C = MIXED USED COMMERCIAL DISTRICT SETBACKS= -FRONT= 0 FEET MINIMUM -SIDE= 0 FEET MINIMUM FOR BUILDING LESS THAN 25' IN HEIGHT -REAR= 0 FEET MINIMUM HEIGHT RESTRICTIONS= 45 FEET PARKING PROVIDED= -REGULAR= 352 SPACES -HANDICAP= 23 SPACES TOTAL SPACES PROVIDED= 375 2. NOTES REGARDING ALTA STANDARD ITEMS 16, 17, 18 & 19- NO OBSERVABLE EVIDENCE OF EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS IN RECENT MONTHS. NO OBSERVABLE CHANGES IN STREET RIGHT-OF-WAY LINES, RECENT STREET OR SIDEWALK REPAIRS. NO OBSERVABLE EVIDENCE OF SITE USE AS A SOLID WASTE DUMP, SUMP OR SANITARY LANDFILL. NO WETLAND AREAS DELINEATED BY APPROPRIATE AUTHORITIES AT TIME OF SURVEY. 3. PROPERTY CONTAINS 8.69 ACRES, MORE OR LESS (378,721 SQ. FT.) OF GROSS LAND AREA.

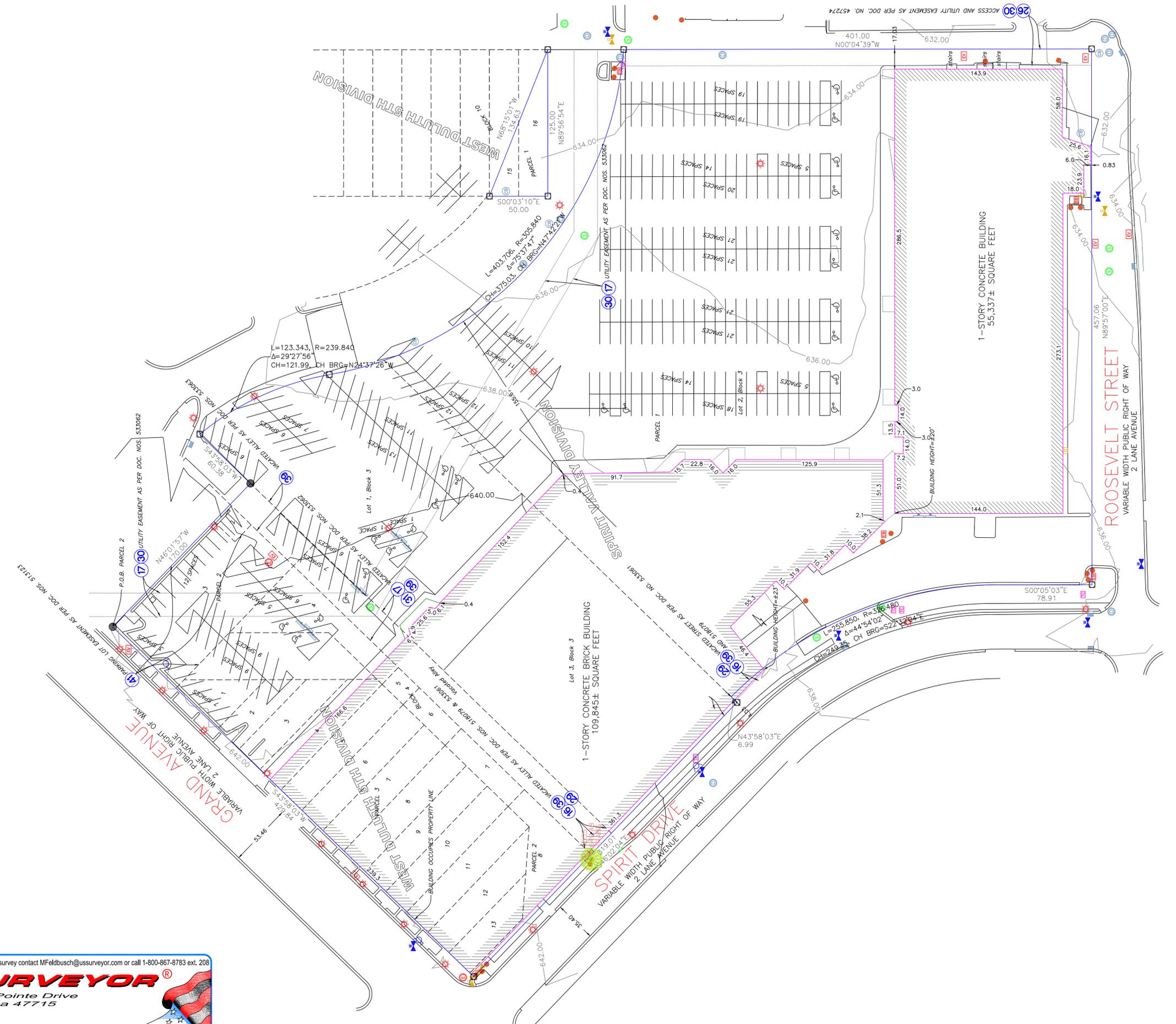
RECORD CLOSURE 1:33400 MEASURED CLOSURE 1:33400

CERTIFICATION IS ONLY TO THE PARTIES HEREIN NAMED. THIS SURVEY IS NOT VALID FOR ANY FUTURE TRANSACTIONS OF THIS PROPERTY.

Table with columns: DATE OF ORIGINAL, REVISION, NETWORK COMMENTS, DATE. Values include SEPTEMBER 20, 2021 and SEPTEMBER 21, 2021.



SCALE: 1" = 40'
THIS DRAWING WAS CREATED TO BE VIEWED IN DWG FORMAT. IF IT IS REPRODUCED OR VIEWED IN PDF OR ANY OTHER ELECTRONIC FORMAT, IT MAY NOT BE TO SCALE.
BEARINGS BASED ON SLCTM96 COUNTY COORDINATE SYSTEM



For inquiries, questions or concerns about this survey contact MFeldbusch@ussurveyor.com or call 1-800-867-8783 ext. 208

U.S. SURVEYOR[®]
4929 Riverwind Pointe Drive
Evansville, Indiana 47715
"America's Land Surveyor"

1-800-TO



SITE AERIAL SCALE: N.T.S.

Zoning Information
 Project Name: U-Haul Moving & Storage of West Duluth
 Municipality: City of Duluth
 Project Address: 5710 Grand Ave., Duluth, MN 55807
 APN /Acre / Area: St. Louis County APN(s) 010-4097-00090, 010-4097-00070, 010-4097-00170, 010-4097-00160, 010-4097-00150, 010-4097-00140, 010-4097-00130, 010-4097-00120, 010-4097-00111, 010-4510-02600, 010-4510-02570, 010-4510-02560, 010-4510-02540 and 010-4510-02510 / 3.92± Acres / 170,755± s.f.
 Zone: MU-C - Mixed Use Commercial
 Adjacent Zoning:
 N- F-3 - Mid-rise Community Shopping/ F-4 - Mid-rise Community Mix
 E- F-3 - Mid-rise Community Shopping/ F-4 - Mid-rise Community Mix
 S- F-4 - Mid-rise Community Mix
 W- F-3 - Mid-rise Community Shopping/ F-4 - Mid-rise Community Mix
 Uses: Auto/Light Vehicle Rental (1), Mini-warehouse/Self-service Storage (SUP(58-20.3L))

Bulk Requirements

Setbacks:	Required	Provided
Front yard:	None, for structures 35-ft. or less	+/-162'-2"
Side yard:	None, 15-ft. adjacent to residential	None
Rear yard:	None, 15-ft. adjacent to residential	None

Height Limit: 90-ft. max. for mixed use
45 ft. within 500 ft of R-1 or R-2

Existing Height +/-25'-2"

Parking:

	Required	Provided
General Retail	3 sp	5 sp
3 sp/1000 sf		
2908/1000=3 sp		
Self-service Storage	25 sp	126 sp
(1 sp/ 20 storage units)		
492 units/20=25 sp		
Total Required:	27 sp	115 sp

LANDSCAPING

	Required	Provided
Parking Area		
15% (min) of interior parking area	36 trees	26 trees
1 tree/300 sf of interior ls area, 8 ft. (min)		
(72,162sf x 15%=10,824 sf/300 sf=36 trees)		

Street Frontage

	Required	Provided
Grand Avenue	13 trees	13 trees (including 5 existing)
1 tree/35 lf		
(430.5 lf/35 = 13)		

- Existing Landscaping to Remain
- Proposed Landscaping
- Existing Sidewalk to Remain
- Existing Loading Dock and Refuse to Remain
- Existing Lighting to Remain

REVISIONS:

NO.	DATE	INITIALS	NOTES
1	10-01-21	zi	SUP resubmittal
2			
3			
4			
5			
6			
7			
8			

PROFESSIONAL SEAL:

PRELIMINARY DOCUMENTS - NOT FOR CONSTRUCTION. FOR INFORMATION ONLY.

ARCHITECT LOGO:

AMERCO REAL ESTATE COMPANY
 CONSTRUCTION DEPARTMENT
 2727 NORTH CENTRAL AVENUE
 PHOENIX, ARIZONA 85004
 P: (602) 263-6502

SITE ADDRESS:
 U-Haul of West Duluth
 5710 Grand Ave.
 Duluth, MN 55807

SHEET CONTENTS:
 Preliminary Site Plan

729077

DRAWN: KMB
 CHECKED: NH
 DATE: 08/25/21

SP1

729077A1A.dwg
 Page 61 of 151

**5710 GRAND AVENUE
DULUTH, MN 55807**

CONNECTIVITY -EXISTING SIDWALKS

(SHOWN IN RED)





350 Ft FROM EDGE OF BUILDING

N 59th Ave W

N 57th Ave W

Ramsey St

5530 RAMSEY ST

DULUTH
Grand Ave

N 58th Ave W

5710 GRAND AVE

5814 GRAND AVE

5830 GRAND AVE

5712 ROOSEVELT ST

215 N CENTRAL AVE





ARCHITECTURAL WOOD PANELING
ENHANCES RETAIL APPEARANCE

ARCHITECTURAL PANELING
PROVIDES ARTICULATION, DEPTH
AND TEXTURE TO THE BUILDING

PAINT TREATMENT ELEVATES
NEIGHBORHOOD RETAIL
APPEARANCE

WINDOWS ENHANCES
RETAIL UNIFORMITY

MOVING & STORAGE AT WEST DULUTH
5710 Grand Ave., Duluth, MN 55807

PC Packet 02-08-2022



NORTH ELEVATION



EAST ELEVATION



SOUTH ELEVATION



WEST ELEVATION



ADVERTISING & MARKETING ASSOCIATES, INC.

ARCHITECTURAL DESIGN & FACILITY IMAGING

October 11, 2021

Conceptual renderings are subject to change and should not be implemented.



ATAS Architectural Panel
 Woodland Series - Walnut



ATAS Architectural Panel
 Rigid Wall Clear Satin Anodized



NORTH ELEVATION





NORTH ELEVATION

42'- 3"
2'- 6"
DRIVE-UP SELF-STORAGE

Poly Carbonate plastic letters
2'- 6"W X 42'- 3"H - X2
105.625 SQFT

31'
1'- 6"
boxes · moving supplies

Poly Carbonate plastic letters
1'- 6"W X 31'H
46.5 SQFT

30'
2'- 6"
CUSTOM HITCHES

Poly Carbonate plastic letters
2'- 6"W X 30'H
75 SQFT



Poly Carbonate plastic letters
5'W X 9'H
45 SQFT

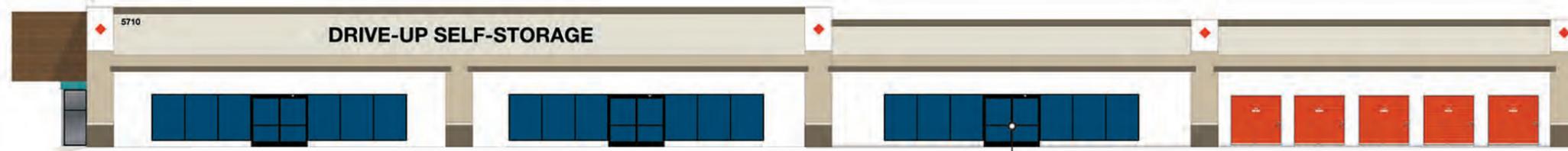
34'- 3"
5'
Your Storage Place

Poly Carbonate plastic letters
5'W X 34.25'H
171.25 SQFT

TOTAL = 549ft²

42'-3"
2'-6"
DRIVE-UP SELF-STORAGE

Poly Carbonate plastic letters
2'-6"W X 42'-3"H
105.625 SQFT



EAST ELEVATION

Architectural Displays



18'-9"W X 6'H
112.5 SQFT



Architectural Displays

WEST ELEVATION

TOTAL = 218.125ft²

5710 Grand Avenue,
Duluth MN 55807

BUILDING AND AREA LIGHTING:

THERE ARE FOUR (4) EXISTING POLE LIGHT FIXTURES



Symbol	Label	Quantity	Manufacturer	Catalog Number	Description	Loop	File Name	Lumens Per Loop	Light Loss Factor	Wattage
	F1E	4	Lithonia Lighting	WST LED P1 40K VF MVDLT DBDX	WST LED, Performance pack 4000 K, visual comfort Forward Throw, MVDLT	4000K COLD	WST_LED_P1_40K_VF_MVDLT.Ties	1639	0.95	12
	F2E	1	Lithonia Lighting	WST LED P3 40K VF MVDLT DBDX	WST LED, Performance pack 4000 K, visual comfort Forward Throw, MVDLT	4000K COLD	WST_LED_P3_40K_VF_MVDLT.Ties	6609	0.95	50
	K2	3	Lithonia Lighting	WRT 2 32 A12125 MVDLT GEB10IS	WRT LOCATION TROFFER 1' X 4'	TWO 32-WATT T8 LINEAR FLUORESCENTS.	WRT_2_32_A19_TUBIes	2850	0.75	59
	K2E	1	Lithonia Lighting	WRT 2 32 A12125 MVDLT GEB10IS	WRT LOCATION TROFFER 1' X 4'	TWO 32-WATT T8 LINEAR FLUORESCENT.	WRT_2_32_A19_TUBIes	2850	0.75	59
	SA	2	Lithonia Lighting	DSX2 LED P4 40K T4M MVDLT HS DBDX / SSS 27" PDLE WITH 3' BRASS	DSX2 LED P4 40K T4M MVDLT HS Side	4000K COLD	DSX2_LED_P4_40K_T4_M_MVDLT_HS.Ties	25364	0.95	270
	SD2	2	Lithonia Lighting	DSX2 LED P4 40K T5W MVDLT HS DBDX / SSS 27" PDLE WITH 3' BRASS	TWIN-HEAD DSX2 LED P4 40K MVDLT	4000K COLD	DSX2_LED_P4_40K_T5W_MVDLT_HS.Ties	34437	0.95	540

Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min
PROPERTY LINE - FC @ GRADE	X	0.8 fc	6.0 fc	0.0 fc	N/A	N/A
SITE - FC @ GRADE	+	2.1 fc	12.3 fc	0.1 fc	123.0	21.0



SITE AERIAL

SCALE: N.T.S.

Zoning Information

Project Name: Project # 729077
U-Haul Moving & Storage of West Duluth

Municipality: City of Duluth

Project Address: 5710 Grand Ave., Duluth, MN 55807

APN / Acre / Area: St. Louis County APN(s) 010-4097-00090, 010-4097-00070, 010-4097-00160, 010-4097-00150, 010-4097-00140, 010-4097-00130, 010-4097-00120, 010-4097-00111, 010-4510-02600, 010-4510-02570, 010-4510-02560, 010-4510-02540 and 010-4510-02510
/ 3.92± Acres
/ 170,755± s.f.

Zone: MU-C - Mixed Use Commercial

Adjacent Zoning:

- N- F-3 - Mid-rise Community Shopping/ F-4 - Mid-rise Community Mix
- E- F-3 - Mid-rise Community Shopping/ F-4 - Mid-rise Community Mix
- S- F-4 - Mid-rise Community Mix
- W- F-3 - Mid-rise Community Shopping/ F-4 - Mid-rise Community Mix

Uses: Auto/Light Vehicle Rental (1), Mini-warehouse/Self-service Storage (SUP(58-20.3L))

REVISIONS:

NO.	DATE	INITIALS	NOTES
1			
2			
3			
4			
5			
6			
7			
8			

PROFESSIONAL SEAL:

PRELIMINARY DOCUMENTS.
NOT FOR CONSTRUCTION.
FOR INFORMATION ONLY.

ARCHITECT LOGO:

AMERCO
REAL ESTATE COMPANY

CONSTRUCTION DEPARTMENT
2727 NORTH CENTRAL AVENUE
PHOENIX, ARIZONA 85004
P: (602) 263-6502

SITE ADDRESS:

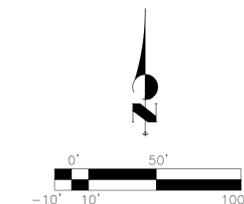
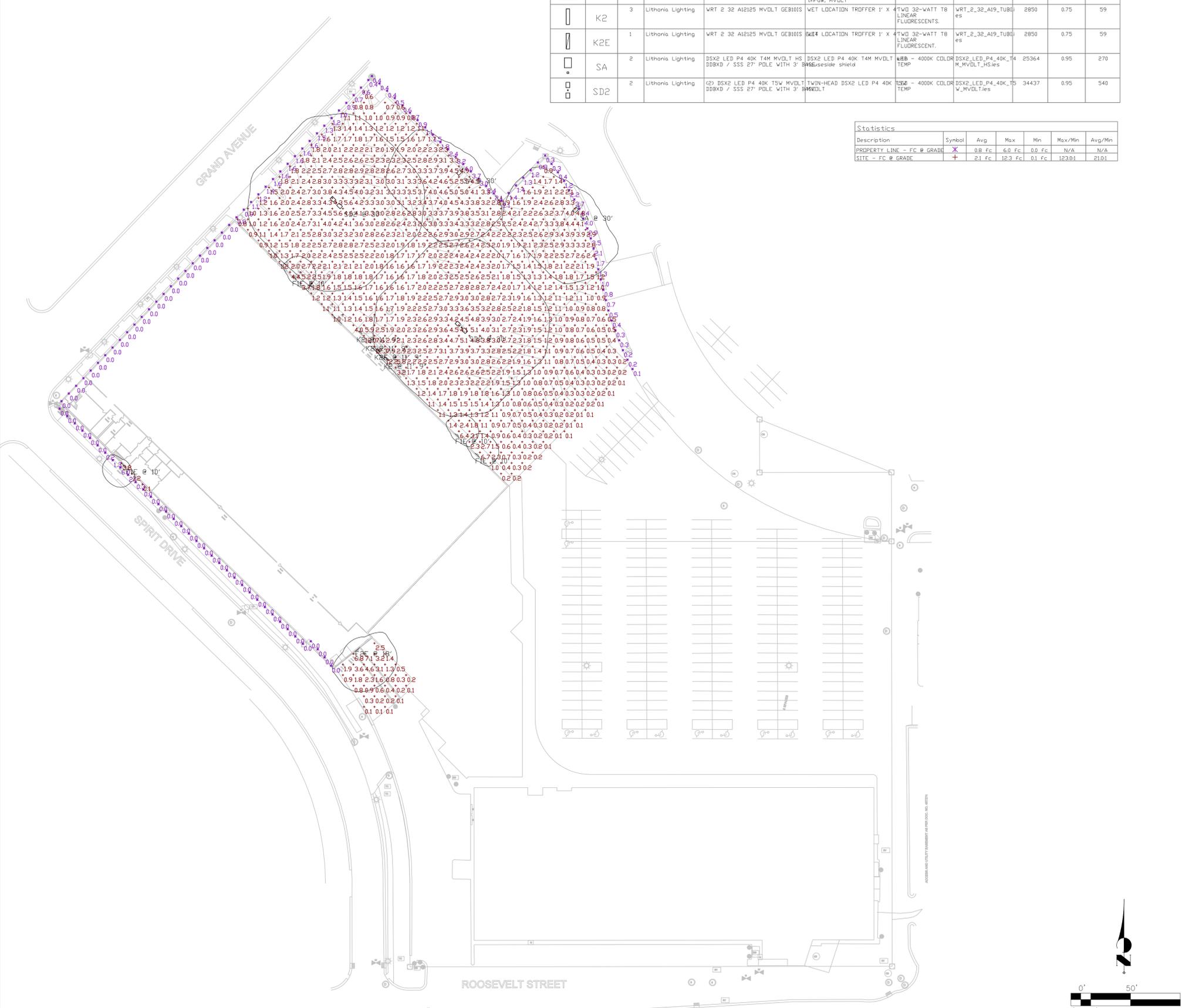
U-Haul of West Duluth
5710 Grand Ave.
Duluth, MN 55807

SHEET CONTENTS:

Preliminary
Site Photometric Plan

729077

DRAWN:	KMB	SP1
CHECKED:	NH	
DATE:	08/25/21	



PRELIMINARY SITE PHOTOMETRIC PLAN

SCALE: 1" = 50' - 0" SITE DATA

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P.O. BOX 7064
Duluth, MN 55807

September 2, 2021

City of Duluth – Planning & Development Commission
411 W 1st St, Room 160
Duluth, MN 55802
VIA EMAIL ONLY: planning@duluthmn.gov

Adam Fulton
Emily Nygren

RE: VACANT KMART BUILDING

Dear Planning and Development Office:

Hello. I am writing this letter on behalf of the West Duluth Business and Civic Club, located in the Western area of the city. We are a community membership-based organization, consisting of area businesses, local residents, and civic/public interest groups. Since 1902 we have been active in monitoring the progress and development of our community and sharing information with our members/area residents about issues that may impact their lives.

Specifically, on July 27, 2021 our board met with U-Haul representative Kellin Sybrant, Oliver Management representative Britney Oliver, and their chosen real estate representative, Bev Wentzlaff with CMRA. Our board members posed several questions about the intent for U-Haul to purchase the long-time vacant Kmart building, and we are to understand that in order to do so, a zoning variance would be needed.

After our meeting, some board members conducted an informal survey of local businesses in the area, those closest to the Kmart building, as well as community members for their feedback on the proposal. Based on the feedback we received and after discussing our individual thoughts as board members, at our most recent board meeting on August 31, 2021, our board made the unanimous decision **not** to support

the zoning variance request, which we now understand is scheduled to be heard at the public hearing on September 14, 2021.

Essentially, and as you may already be aware, the West Duluth Business Club board has long been searching to develop the Grand Avenue/Central Avenue corridor area as a strong retail district or craft district. We have been fortunate to welcome several new businesses in recent years and we would like to continue developing an image for the area consistent with a mixed-use or retail area, supportive of business entrepreneurs.

We wholeheartedly support the idea of U-Haul developing its services in this area, but also feel the nature and service of its business model would be best suited to the lower Waseca Avenue industrial area, or the Eastern Grand Avenue area, near such places and Acme Tools or Duluth Lawn and Sport, or similar.

Should you have questions or feedback, please free to contact our current club president, Ms. Susan Coen.

Thank you for your attention to this matter.

/es/ Brenda S. Denton

Brenda S. Denton
WDBC Board Member

Cc: WDBC Board

**Irving Rec and Events Assoc., Inc.
116 S 58th Ave W
Duluth, MN 55807**

November 1, 2021

City of Duluth- Planning and Development
411 W 1st St., Room 160
Duluth, MN 55802

Sent via email to:

Adam Fulton,

Emily Nygren

Re: Former KMart Building- Spirit Valley Mall

Dear Mr. Fulton:

Irving Rec and Events Assoc., Inc. would like to send this letter to you stating our opposition to the current proposed rezoning of the former KMart Building.

The plans which had been developed for the business district included retail, office space and mixed use developments. The needs of the neighborhood have not changed.

Currently the former KMart building is considered to be a blight in the neighborhood with both the building and parking lots not being maintained by the former KMart and now the current owner.

We would support a Uhaul Company moving into one of the Western Industrial Parks of which there currently is room and zoning is not an issue.

Since the notice was posted for the rezoning Social Media has been very active by the Western Duluth Residents. They overwhelmingly are not in support of the UHaul project being located in the former KMart Building.

Sincerely,

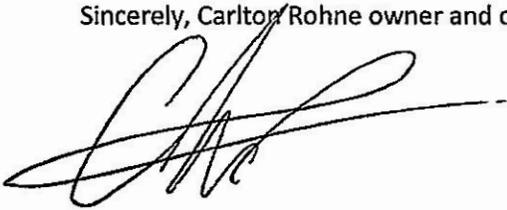

Jeffrey Urbaniak
President

To who it may concern, the perspective from North Port Tattoo is that a U-haul store in our neighborhood would do more to harm to local commerce than benefits. We would appreciate if this is taken into consideration as it would likely impact the livelihood of more business owners, and their employees alike, more than it would ever benefit. I for one believe this area has the potential to become a very boutique, foot traffic center for small business commerce not only in west Duluth, but in the entire twin ports area.

Most of these business owners have no ties to large sums of corporate money and the influence that comes with that level of wealth. But in our totality I truly believe we have the capacity to to bring the kind of culture, and community to in a sense gentrify the economically depressed west Duluth area enabling new entrepreneurs the ability to better themselves, and their community.

If there was any serious consideration into a large corporate business occupying that property we would respectfully ask that the property owner reconsider their options and seek something that employs more people, and brings a considerably larger amount of retail shoppers to the neighborhood. We have so much to offer those people, and I do not see a future where U-haul brings any degree of charm to the mix of small business in this neighborhood. Thank you for considering my position.

Sincerely, Carlton Rohne owner and operator of North Port Tattoo

A handwritten signature in black ink, appearing to be 'CR', with a long horizontal line extending to the right.

From: [West Duluth Business Club](#)
To: [Adam Fulton](#)
Cc: [Emily Nygren](#); [Bill McGiffert](#); [Charlie at Spirit Lake](#); [Dawn Thums](#); [Scott Youngdahl](#); [Spirit Valley Youth Center](#); [susan.coen](#); [Kyle Deming](#); [Jennifer Moses](#); [Janet Kennedy](#); [Paige Larson](#)
Subject: Re: Kmart Building zoning variance request - U-Haul
Date: Thursday, December 30, 2021 12:52:11 PM

Hello Mr. Fulton and Planning Commission. This email is being re-sent in order to remind the commission that the West Duluth Business and Civic Club board does NOT support UHaul's zoning variance request, and we strongly believe that most local residents and businesses do NOT support it either, based on our conversations with citizens and business owners/investors in our community. Please review the letter from us previously sent to you on September 7, 2021.

Thank you for your time and attention to this matter.

B. Denton, WDBC board member

On Tue, Sep 7, 2021 at 2:17 PM Adam Fulton wrote:

Ms. Denton,

Thank you. This correspondence is received, will be retained with the case file, and provided to the Planning Commission when the application proceeds for consideration.

However, please be advised that the applicant's application was deemed incomplete, and is not proceeding for Planning Commission consideration at the 9/14 meeting. The applicant has subsequently submitted additional materials, but the review of those materials is not yet complete. It has not yet been determined whether the application could proceed for the 10/12 meeting.

Thank you,

Adam

Adam Fulton | Deputy Director, Planning & Economic Development | he/him/his | **City of Duluth** | 411 West First Street, Duluth, MN 55802

From: West Duluth Business Club

Sent: Tuesday, September 07, 2021 1:37 PM

To: Adam Fulton; Emily Nygren **Cc:** Bill McGiffert; [Charlie at Spirit Lake](#); Dawn Thums; Scott Youngdahl; [Spirit Valley Youth Center](#); susan.coen

Subject: [Kmart Building zoning variance request - U-Haul](#)

Please see attached correspondence from the West Duluth Business and Civic Club.

B. Denton

--

West Duluth Business and Community Club

Board Member, Brenda S. Denton

--

West Duluth Business and Community Club
Board Member, Brenda S. Denton

From: [planning](#)
To: [Adam Fulton](#)
Cc: [Kyle Deming](#)
Subject: FW: Kmart/Uhaul rezoning issue
Date: Thursday, December 30, 2021 2:38:33 PM

FYI

From: Tom Bergum
Sent: Thursday, December 30, 2021 2:16 PM
To: planning <planning@DuluthMN.gov>
Subject: Kmart/Uhaul rezoning issue

Hello and Happy New Year!

I rec'd the West Duluth Business Club email regarding this variance. Our business is in the Spirit Valley Mall around the corner from Kmart. I've chatted with my employees and personally none of us have an issue with Uhaul moving in. I'm curious what the negative reaction is about? I read the Boreal letter and while I feel for her struggles from Covid closing, she elected to purchase that building without securing a parking area next to it. That was a poor decision on her part.

I'd like to hear from the Planning Dept what type of business would be acceptable in a now vacant building that certainly isn't a favorable situation for the owners or the city.

I look forward to learning about your long term strategy for West Duluth. Duluth needs more businesses in the city limits in my view.

Thank you,
Tom

Tom Bergum CPCU, ARM
Partner
Solutions Insurance Agencies
215 N Central Ave-Ste 6
Duluth, Mn 55807

From: [planning](#)
To: [Kyle Deming](#)
Subject: FW: West Duluth Kmart bldg
Date: Monday, January 03, 2022 7:24:56 AM

From: Kathleen Panger
Sent: Friday, December 31, 2021 8:51 AM
To: planning <planning@DuluthMN.gov>
Subject: West Duluth Kmart bldg

I am Not in favor of rezoning the west Duluth Kmart property for U haul.
We already have a U haul dealer in West Duluth on Cody street. Also a large U haul dealer in Superior. The people who live near the Superior one regret allowing them to purchase their Kmart bldg! What we actually need desperately in West Duluth is a place to shop, like a Ross Store, Target, Walmart. Where we can buy things necessary for human survival! I am not for a U haul at all,and see no benefit to western Duluth at all!

Sincerely Kathleen Panger

From: [planning](#)
To: [Kyle Deming](#)
Subject: FW: West Duluth / Chadco rezoning variance
Date: Monday, January 03, 2022 7:35:35 AM

From: RaeAnn Hamlin
Sent: Sunday, January 2, 2022 6:33 PM
To: planning <planning@DuluthMN.gov>
Subject: West Duluth / Chadco rezoning variance

Dear Planning Commissioners:

This letter is a response regarding plans for a possible variance to Spirit Valley Mall-Grand Ave entrance at the old K-Mart building and parking lot site. The area being considered for U-Haul trucking and service center.

*My name is RaeAnn Hamlin, **business owner and property owner** at 5615 Grand Avenue for over 25 years. As the owner of Hamlin Music, I have a vested interest in this community. Currently I am witnessing a renewal of local energy from business owners and residents alike. My concern is safety of the parking lot and appropriate business in that location. My students and parents want a place to shop. They often express parking lot issues whether walking or driving. Adding a U-HAUL facility with vehicles, equipment, etc will only add to the already unsafe situation at the Grand Ave entrance.*

The initial designed use of this property was to provide a shopping area for the citizens of West Duluth, Riverside, Morgan Park, Gary and beyond. Over the years it attracted people for that very reason. Although times have changed the need for viable, attractive businesses in this area of Duluth has not.

Seeking appropriate usage of this area of the mall must be given higher priority. I believe community and business leaders need to develop an appropriate plan for this area and this situation. Spirit Mountain and St Louis River are new tourist areas for year-round visitors. Our new Visit Duluth replacement needs to give our area a "top-priority challenge." Mickey Mouse can do the advertising for Canal Park and come up with winning numbers.

Concerning the present request for variance:

Large U-Haul vehicles in a parking area in front of the building would be unsightly and detract from its designed purpose.

Elements of danger entering and departing Grand Avenue is obvious.

The proposed usage does not serve the local resident customer.

This may encourage other businesses to leave the area.

Grand Avenue traffic is not conducive to this kind of growth.

Some Options to Consider:

A general store for western Duluth shoppers would fill the need and be welcomed.

Provide a monetary incentive as was done with COSCO. It's high time this area of Duluth receive its share of recognition for funding of new development.

Consider government usage for offices, etc. An alternative to multi-million dollar palaces.

Adequate parking would be a plus!

More people will enhance economics of the area

Childrens' activity and/or educational center

High Tech Center for the Duluth/Superior area

Outdoor business that provides skiing, biking, hiking, fishing, etc that would augment the activities promoted in this area of Duluth. ex: Northwest Outlet, small scale Cabellas

We need to prioritize to encourage people to be in the West Duluth area. Truck and Storage are not appropriate for this space.

Thank you for recognizing the seriousness of this issue as we revitalize our western corridor.

Sincerely,

RaeAnn Hamlin

Hamlin Music Academy --- Hamlin Entertainment
5615 Grand Ave ~ Duluth MN 55807

WWW.HAMLINMUSIC.COM

From: Carole Newkumet
Sent: Wednesday, January 5, 2022 2:59 PM
To: planning <planning@DuluthMN.gov>
Subject: opposition to request for variance

Dear Commissioners.

I am writing in opposition to the variance being sought by UHaul on the site of the former West Duluth KMart property.

I have nothing against Uhaul personally but this type of business will not enhance or improve the neighborhood in any way.

Time & again in assorted community building gatherings residents have expressed their desire for more amenities in the area. Things like retail, recreational businesses/activities & affordable housing. This could be the perfect opportunity to address some of those issues & revitalize the entire area.

A UHaul Truck & storage center will do none of these things.

I understand the seller's desire to sell the property & I would hope that they will seek a buyer that is more in line with the community's needs.

I urge you to hear the voices of those that live in western Duluth. Please vote "No" on this variance request.

Respectfully,
Carole Newkumet
President Riverside Community Club

From: Charlie Stauduhar
Sent: Thursday, January 06, 2022 5:01 PM
To: Adam Fulton
Subject: proposed K Mart sale

Adam Fulton
Duluth Planning Commission

Zandra Zwiebel, Gary Eckenberg, Jason Crawford, Andrea Wedul, Michael Schraepfer, Eddie Ranum, Sarah Wisdorf, Jason Hollinday, Margie Nelson

Dear Commissioners,

I am a West Duluth business owner, in the recreational tourism sector, and a person who grew up in West Duluth in the 1960's. That was a time when this neighborhood hosted JC Penny, Montgomery Ward, Sears, Ben Franklin, a couple large grocery stores, Shoppers City, and many independent retailers, restaurants, bakeries, pharmacies and flower shops.

I am writing to address the proposed sale and use of the West Duluth K Mart property to U-Haul. I understand the need for Oliver Management to unload their property. The proposed sale to U-Haul is not the right fit for this neighborhood. Some say, "Its better than nothing". I disagree. If no variance were needed, I understand the right of the buyer and seller to move forward. But, zoning regulations are in place for a reason.

The city of Duluth would not allow such a business in the center of Downtown Duluth, or in the middle of the Lincoln Park craft district.

The Grand Ave-Central Ave. business district is the downtown of the western neighborhoods of West Duluth.

The City of Duluth has invested millions into the recreation corridor along the St. Louis River. One of the results of such investment is the continued revitalization of the Lincoln Park business district. We are starting to see new investment here in West Duluth. New retail stores, the newly refurbished West Theater, Zenith Book and the River West Project, Whole Foods Co Op, just to name a few.

There is a reason why the West Duluth Super One, Menards, Super One Liquor are the top performing stores in their respective chains. Even the former K-mart, I have been told, did better than many others around the country before the chain closed down. Reasons are: ease of access, proximity to the outlying areas of Proctor, Superior, Cloquet by the interstate. I used to own the form Liberty Liquor which is now Super One Liquor on Central Ave. We used to get so many Lakeside customers because, for them, it was much easier to come to West Duluth versus going up on top of the hill for a lot of their shopping.

Allowing a business like U-Haul in that space would kill any chance for more investment in West Duluth for generations to come.

Like businesses prefer to set up shop near complimentary businesses.

If I were starting or moving a new retail or craft business, I certainly wouldn't want to be near a self-storage facility.

West Duluth is the first neighborhood visitor's encounter as they enter our great city. Let's make decisions that encourage future growth, the kind of growth that will make a great first impression.

I encourage you to vote no on the variance request put forth.

Charles Stauduhar

Spirit Lake Development
121 Spring Street Duluth, Mn 55808

From: Soul Sisters
Sent: Friday, January 7, 2022 3:32 PM
To: planning <planning@DuluthMN.gov>
Subject: UHAUL

Hi, my name is Treasa, I am co owner to Soul Sisters Discount Store located in the same strip mall. I for one am happy that something is going in the old kmart. It will be beneficial with lighting, curb appeal and I personally could use a storage unit. I would like to be the first to welcome U-haul to the neighborhood.

Thank you

To Whom It May Concern,

I have been employed with Anytime Fitness West Duluth since 2017 and have been a West Duluth resident all my life. As a child a frequently shopped at K Mart and the surrounding businesses that Oliver Management operates. Now, I am the District Manager to several Anytime Fitness locations with my homebase being West Duluth. Anytime Fitness became a part of the Oliver Management clientele in the early 2000s. We service over 1200 members with our 24/7 facility.

Being a 24/7 facility means that safety must be our priority. During the initial closing of K Mart, myself and our members experienced unwanted disturbances of our neighborhood. This included several burglaries of the Dollar Tree and the abundance of homeless outside our building. When I heard that U-Haul wanted to occupy the K Mart I was pleased. U-Haul will have several indoor and outdoor camera systems which will provide safety and security to their business and mine.

As a consumer, I initially loved the idea of a big box retail replacing K Mart. However, I understand that these types of retail are failing. Also, although the notion of boutique/ mom and pop stores seem fun, they would not provide enough profit to accommodate that big of space. I appreciate how U-Haul would be able to profit while occupying this large of an area. They also bring along the added benefit of additional security.

I am in favor of U-Haul joining our family in the Oliver Management strip.

Thank you,

Ringo Kienitz

District Manager/Assistant to the Regional Manager

Anytime Fitness West Duluth

Anytime Fitness Virginia

Anytime Fitness Superior

[REDACTED]

[REDACTED]

We are working with UHaul to revitalize the KMart Building in the Spirit Valley Mall. This is the perfect use of an 87,000 sq ft building! Would you help us tell the City that this is good for West Duluth?



VS



U-Haul Security Features

- "State-of-the-Art" Burglar/Max Alarm System, includes 24 Hour monitoring and interior motion detectors on all storage floors, stairwells and main showroom
- Hands Free Intercom System, able to communicate to all Max Stations throughout all floors of storage, specifically designed for customer use
- 24 Hour Digital, HD Video Surveillance, with remote & web base viewing
- Individually Alarmed Rooms, armed & disarmed by a Keypad/Card swipe
- Programmable, automatic security gates which only allow paying customers to access exterior storage.
- 16+ Color/ HD, Day and Night Cameras, will display facilities interior, exterior and elevator.
- Multiple, Audible Sirens for Storage and Burglar Alarms

U-Haul's Sustainability Programs

- Box Exchange Program
- Facilitating Multiple Reuses
- Fuel Economy Gages
- U-Car Share
- 100% Biodegradable Packing Peanuts made of starch mixture, replacing styrofoam and reducing landfill waste
- Moving Blankets Manufactured from Denim and cotton/ polyester Re-Use Centers at Storage Locations
- Telecommute program
- The Conservation Fund- Go Zero

USE COMPARISON					
Use	Square Feet	Traffic Volume		Typical Hours	Days
		Weekday	Weekend		
Fast Food Restaurant	3,000 sq ft	3,161 trips	3,430 trips	18 hours - 24 hours	7
Gas Station w/ Convenience Store	2,200 sq ft	1,200 trips	2,200 trips	18 hours - 24 hours	7
Hotel	60,000 sq ft	905 trips	901 trips	24 hours	7
Casual Dining	6,000 sq ft	1,075 trips	1,258 trips	11 am - 11 pm 12 hours	7
U-Haul Center	80,000 sq ft	31 trips	53 trips	7 am - 7 pm 12 hours	7

CMRA, LLC: 1405 Miller Trunk Hwy. Suite 600
Duluth, MN 55811 (218) 727-0064

Uhaul wants to purchase and renovate the KMart building in the Spirit Valley Mall. Duluth City Zoning says this will negatively impact the neighborhood. We think it would be a great facility for residents and businesses alike! Would you join us is asking for a variance to allow UHaul to bring long awaited new life to a 87,000 sq ft empty shell?

We, the undersigned urge Duluth's Leadership to approve the variances required for UHaul's revitalization of the KMart in West Duluth!

BUSINESS NAME	SIGNATURE	TITLE	ADDRESS	PHONE
Fit + Clean	<i>Julia Stone</i>	Tailoring/ ^{DRY} Cleaning	5808 Grand Ave	
Box Drop Duluth	<i>J. Wozzella</i>	owner furniture	215 N. Central Ave	
Box drop Duluth	<i>Robin Wozzella</i>	employee furniture	215 N. Central Ave.	
China King Buffet	<i>Shun</i>	Owner	215 N Central Ave	
GREYSTAR ELECTRONICS	<i>Mary Moldenhauer</i>	President	215 N. CENTRAL AVE	
Lake Superior Physical Therapy	<i>Jenni Wallen</i>	owner	215 N Central Ave	
Anytime Fitness	<i>Pratt</i>	District manager	215 N Central Ave	
From Topknots to Tails	<i>Yelena Mheren</i>	President	215 N Central Ave	
Soul Sisters	<i>[Signature]</i>	owner	" "	
Soul Sisters	<i>[Signature]</i>	owner	" "	
Solutions Ins Agencies	<i>Tom Agn</i>	owner	215 N Central Ave	
Cost Cost Cutters	<i>[Signature]</i>	Managers	" "	
WELCH CENTRAL INC. ^{Valley Youth Center}	<i>[Signature]</i>	CEO	720 N. Central Ave.	
Shake It	<i>[Signature]</i>	owner	5801 Grand Ave	
Garth Detering ^{West Duluth Sewing}	<i>[Signature]</i>	owner	5711 Grand Ave	
Oliver management	<i>[Signature]</i>	Director	5713 Grand Ave Duluth	
Paul T. Pacynski, C.P.A.	<i>[Signature]</i>	President	5709 Grand Avenue	
Allison Kaldahl ^{Mr. D's}	<i>Allison Kaldahl</i>	Manager	5611 Grand Ave	
Michelle Hooley ^{DRCC}	<i>Michelle Hooley</i>	Executive Director	5629 Grand Ave	
Holden Duluth Agency	<i>[Signature]</i>	V/President	5713 Grand Avenue	

UHaul wants to purchase and renovate the KMart building in the Spirit Valley Mall. Duluth City Zoning says this will negatively impact the neighborhood. We think it would be a great facility for residents and businesses alike! Would you join us is asking for a variance to allow UHaul to bring long awaited new life to a 87,000 sq ft empty shell?

We, the undersigned urge Duluth's Leadership to approve the variances required for UHaul's revitalization of the KMart in West Duluth!

BUSINESS NAME	SIGNATURE	TITLE	ADDRESS	PHONE					
HU Fitness LLC		Owner	5713 Grand Ave Duluth MN						
									

From: David McGovern
Sent: Saturday, January 8, 2022 11:07 AM
To: planning <planning@DuluthMN.gov>
Subject: Old Kmart building in West Duluth

Hi, I wanted to email the city of Duluth in regards to the potential purchase of the old Kmart building in West Duluth by UHaul. As a business that has been located in the Spirit Valley Shopping Center for over 35 years, we have seen numerous changes to the shopping center and the west Duluth area. Since Kmart has closed, our business not only has seen a decline in customer traffic but the deterioration of the surrounding area. Our business has shortened hours due to the sketchy nature of the activity near the closed Kmart building and adjacent parking lot. Having a reputable national branded business like Uhaul, would be a wonderful and needed addition to the shopping center and the businesses that operate there. The city of Duluth should not be purchasing this building to hold out for the perfect tenant and to waste taxpayers money when UHaul can make an immediate impact on the local economy in numerous ways. Plus, the refreshed look of a successful business in UHaul occupying the space will only drive more traffic to the shopping center and help all the businesses in the surrounding area. Our small business, among many others, implores the city of Duluth to use common sense and approve this transaction without hesitation.

--

David McGovern
Cost Cutters Salons

January 8, 2022

Dear members of Duluth Planning commission,

My husband and I are owners of Boxdrop Duluth located in the Spirit Valley Mall in West Duluth. We have rented space there since the summer of 2019. It's been a good move for our business. We are grateful for our customers and glad that we can provide needed service for our community, city and beyond. We are happy to be an asset in our neighborhood and to the city of Duluth.

Our landlord has told us there is an opportunity to have a U-Haul move into the nearby vacant Kmart building. We think this would be a great move and we are fully onboard.

We're not sure why there would be any sort of limitation of this business coming in. It is sad to see such a huge building sitting vacant and having both the building and parking/road area fall into disrepair or be used as a non-authorized truck stop or camping area. It's hard to imagine the expense associated with the upkeep of this property as well.

We believe U-Haul would do well in this space, provide a needed service for our local community (and even outside of it) and would benefit the city by providing additional tax revenue to the city as well as creation of jobs. Additionally, many of our clientele are people moving to a new location (new home purchase or apartment move, students coming to our area, assisted living and more). We believe U-Haul is needed and would do very well in this space/area of our city.

We often have customers who need to rent a truck or trailer to haul furniture and mattresses purchased from us. They either have to drive to Superior or to the Miller Hill Mall area. It would be wonderful to have the convenience of having this service so close. Our local Menards and other businesses would likely benefit as well.

We're told there would be greater security as well with the installation of cameras and better lighting. That would be wonderful as well. We've seen our local Dollar Tree vandalized several times since moving in and it has been a concern for that happening to us and other businesses in the mall.

Our business purchased a used cube van from the U-Haul located in the former Kmart building in Superior about 2 years ago. We found the space to be beautiful, clean and updated. The employees and management there were great to work with and we'd expect no less from new owners and employees in our area.

Finally, based on our personal experience, storage space seems sorely missing in our city,. Our community would definitely benefit from having more of that as well.

Thank you for considering bringing U-Haul to the old West Duluth Kmart building. We are in favor and hope you will please vote to approve it!

Sincerely,
Robin Worzella
Boxdrop Duluth

From: **Barbara LeGarde**
Date: Tue, Jan 11, 2022 at 7:47 PM
Subject: The future of the 57th & Grand

To Whom It May Concern,

As a West Duluth born & raised gal, I can't express how wonderful it has been to see the corner of 57th & Grand build and improve.

With the addition of the Antique Marketplace and the Boreal House on that corner, it was starting to feel like a "Neighborhood" again after many years of going in the opposite direction.

I have recently been told that they are considering allowing a storage unit and U-Haul type business to move into the old KMart building. I cannot tell you how disappointed I was to hear the city may be once again taking away any type of Neighborhood growth to this section of town.

The Boreal House is EXACTLY what was needed in this end of town. Somewhere to meet friends & neighbors while feeling SAFE, and having a parking lot full of trailers would 100% ruin that space.

PLEASE reconsider this option. We have all had high hopes for something to go into this empty space that would continue to improve & grow this area. A storage unit business is NOT the answer.

Thank you,
Barbara Bester-LeGarde
West Duluth Proud.

--

Katie Tintor

From: Jenean Nelson

Sent: Tuesday, January 11, 2022 1:20 AM

To: planning <planning@DuluthMN.gov>

Subject: U-Haul's Request for Variance on the Former West Duluth Kmart Property

The property needs to move away from manufacturing/industry to more retail, recreational & housing. The proposed UHaul Truck & storage center does not meet any of these neighborhood needs. It would negatively impact The Boreal House & other Grand Ave. businesses. Please do not approve this variance.

Another long-sought-after need for the area is proper lighting & the ability to walk safely from Grand Avenue to Central Avenue.

Jenean Nelson

From: maureen yahoo mahle [REDACTED]
Subject: U-Haul?
Date: Aug 25, 2021 at 7:34:52 AM
To: maureen yahoo mahle [REDACTED]

Packet 02-08-2022

Dear Adam and members of the Planning Commission,

My husband and I recently became aware that U-Haul wants to move into the building and parking lot vacated by K-Mart in our neighborhood. We have been residents of West Duluth for almost 50 years!

I understand the importance of securing a tenant in that vacant building, but after viewing the U-Haul site on Tower Avenue in Superior, I feel strongly that it's not the right fit for Grand Avenue...the HEART of the business district in West Duluth.

Driving through the Superior U-Haul site was interesting...row after row of large trucks and trailers, storage containers, and equipment; a huge tank with vertical letters that screamed PROPANE; garish signage on the building in different fonts and colors. (It actually made my head spin.)

People who go to U-Haul will not bring any business to the area's shops, bars, or businesses owned or run by small local retailers trying to stay afloat in these Covid uncertain times.

Allow me to mention two of these businesses: The Boreal House, a small, but vibrant and bursting-with-personality cocktail bar and just across the street is Duluth Antique Marketplace where I along with 45+ other people rent booths as vendors to locals and tourists.

I hope you and members of the planning commission visit Grand Avenue and meet the people who will be affected by the decision you will making regarding a zoning change.

As ever,

As always,

Maureen "Mo" Mahle

Sent from my iPhone

From: Duluth Indian Point Campground
Sent: Friday, January 21, 2022 8:16 PM
To: planning <planning@DuluthMN.gov>
Subject: Special Use Permit for Self-Service Storage Facility at 5710 Grand Avenue

City of Duluth – Planning Commission
C/O Deputy Director Fulton
411 W 1st St, Room 160
Duluth, MN 55802

RE: Special Use Permit for Self-Service Storage Facility at 5710 Grand Avenue

Dear President Nelson and Commissioners:

When I imagine Duluth in 2035, I am filled with the excitement of our potential. We as a community have seen such significant progress in the last five years with tremendous investments in our neighborhoods through housing, local small business, and Duluthians are encouraged by the sense of place only Duluth can inspire. As Planning Commissioners, you see this first hand.

This investment is happening along Central Ave and Grand in Spirit Valley organically with Wussow’s Music Café, Zenith BookStore, Bailey Builds, RW Fern Architects, Naturalite Candles; the list goes on. These are examples of investments that strongly support the Comprehensive Plan. Consider this list as you read through the below excerpts from the principals and policies of Duluth’s Comprehensive Plan.

- Governing Principal #4 calls for supporting economic growth sectors, encouraging economic diversity, engagement with commercial industry, and cultural growth.
- Governing Principal #5 calls for reinvestment in neighborhoods. This principal speaks to creating and enhancing the character of a neighborhood.
- Economic Development Policy #2, Strategy #1 seeks the redevelopment of vibrant walkable neighborhood centers called Core Investment Areas and encourages business activity and engagement with our commercial sector.

When I imagine Duluth in 2035, I do not envision a storage complex with numerous moving vans peppering the sightlines at the heart of Spirit Valley’s commercial district. Not only does this land use not encourage engagement with our commercial sector, it erodes the core and character of this commercial/retail district.

While I can understand the desire to activate this prominent void, I can empathize with the need to mitigate the safety concerns associated with a long vacant building, and I fully appreciate the financial burden this property has on the current owner; however, this use would result in a non-conformity to the development of this commercial district.

The Planning Commission’s greatest charge is ensuring alignment with the UDC and the Comprehensive Plan. This proposed project doesn’t align with either.

Thank you for your service on the Commission and to your community. Your time and expertise are appreciated and valued.

Respectfully submitted,

Inge Maskun

Manager

Duluth Indian Point Campground



Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

Date: February 1, 2022
 To: Planning Commission
 From: Steven Robertson, Senior Planner
 RE: PL 21-210 Amendment to the Airport Overlay

Staff are proposing an ordinance to amend the Unified Development Chapter related to land use controls regulated by the airport overlay (50-18.2). Following almost two years of meetings and discussions between representatives from Duluth, Hermantown, Rice Lake, St. Louis County, and Canosia Township, an updated Duluth International Airport Zoning Ordinance was approved. Each local unit of government is required to incorporate elements of the airport ordinance within their city code. The proposed ordinance removes and replaces existing text in 50-18.2 with new text.

This proposed ordinance amendment was discussed at the previous Planning Commission meeting, January 11, 2022. Additional city staff comments and suggestions were received following the meeting, and minor changes were incorporated into the proposed ordinance.

Recommendation:

Staff recommends that the Planning Commission hold a public hearing, discuss the proposed modifications to the UDC and provide further modifications as appropriate, and recommend approval of the UDC updates to the City Council.

The Planning Staff are recommending a change to the UDC related to the airport overlay district. The major elements of the proposed ordinance are as follows:

- Remove all existing language and replace with new language in UDC 50-18.2, Airport Overlay.
- Preserve current UDC rules and standards that apply only to the Sky Harbor Airport. This results in slightly atypical code language, but effectively retains land use controls and protections near Sky Harbor.
- Incorporate rules and standards that were adopted in the October 6, 2021, Duluth International Airport Zoning Ordinance.
- Update UDC definitions, where appropriate. Approximately 20 definitions currently exist in the UDC (as shown in red), but an additional 80 definitions (in black text) are new definitions and are very specific to the airport overlay, and are instead of being incorporated in to the UDC they are simply referenced in the airport ordinance.
- Reference the airport ordinance as it relates to variance appeals and the JAZB board of adjustment.
- Clarify that other UDC standards (wetland preservation, stormwater management, regulation of land uses) still apply, and that when there is a conflict between the overlay and other standards in the UDC, the most restrictive standard is applied.
- Adopt a new airport overlay map, but refer to the airport ordinance for the specific legal description. Airport Safety Zones A, B, and C now identified as Zone 1, 2, 2.5, and 3. New airport zone 2.5 (Hermantown) has reduced impairments and controls on land uses, to allow for more development and redevelopment. In Duluth, Safety Zone A is markedly the same area as new Zone 1, Zone B is markedly the same as new Zone 2, but Safety Zone C covered a larger area than new Zone 3 (Zone C had extended at least one mile past the end of Zone B).
- Amend/update sections 50-36.4 and .5 (related to Land Use Supervisor and Building Official duties), 50-37.9 (Variances), and 50-13.3 (Zoning Permits/Process)

Strategies and Policies From Imagine Duluth 2035:

Economic Development, Policy 2 (Foster Growth of Existing Employers and strategically Recruit New Employers to Duluth), Strategy 7: Support the work of the Duluth Seaway Port Authority and the Duluth Airport Authority to maximize opportunities for economic growth on and around port and airport properties, consistent with their respective priorities.

Economic Development, Policy 3 (Build on Existing Economic Strength and Competitive Advantages), Strategy 3: Promote opportunities for easing travel for employees to and from Duluth, especially via initiatives such as the Northern Lights Express and through air service to key Great Lakes regional destinations like Chicago or Toronto.

Transportation, Policy 6 (Protect and Enhance Regional Transportation Networks, Especially for Purposes of Expanding Opportunities for Movement of Freight), Strategy 4: Support infrastructure improvements at the Duluth International Airport, including through development of the 3-21 crosswind runway. Structure economic development policies and opportunities for growth in such a way as to support increased activity at the airport.

50-18.2 Airport Overlay (A-O)

The A-O district is intended to protect the lives and property of users of Duluth International Airport (DLH) and Sky Harbor Regional Airport from hazards and to protect the lives and property of residents living in the vicinity of the airports from risks and impacts of airport-related activities. The purpose of this district is also to prevent and, when possible, to minimize, reduce or remove hazards that interfere with the safe operation of the respective airports.

A. Purpose and authority.

The council, pursuant to the provisions and authority of Minnesota Statutes Section 360.063, hereby finds and declares that:

1. The Duluth International Airport is an essential public facility;
2. An Airport Hazard endangers the lives and property of users of the Duluth International Airport, and property or occupants of land in its vicinity, and also if the obstructive type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Duluth International Airport and the public investment therein;
3. The creation or establishment of an Airport Hazard is a public nuisance and an injury to the region served by the Duluth International Airport;
4. For the protection of the public health, safety, order, convenience, prosperity and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of Airport Hazards;
5. The prevention of these Airport Hazards and Aircraft Accidents should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

B. Definitions

Definitions within this section shall be as defined by the Duluth International Airport Zoning Ordinance, created by the Duluth International Airport Joint Zoning Board, recorded in the St. Louis County Recorder's Office as Document Number 01432556, which is incorporated here to in its entirety by refence.

C. DLH Airspace Obstruction Zoning.

1. **Boundary Limitation.** The airspace obstruction height zoning restrictions set forth in Section 50-18.2.C shall apply for a distance not to exceed one-and-one-half (1.5) miles beyond the perimeter of the Airport boundary; said boundary location and dimensions are indicated on the Airport Zoning Map.
2. **Airspace Zones.** Airspace Zones are established to regulate and protect aircraft from navigational hazards during landings and departures. In order to carry out the purposes of the Duluth International Airport Zoning Ordinance, the following Imaginary Airspace Zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone, all whose locations and dimensions are indicated on the Airport Zoning Map.
3. **Height Restrictions.** Except as otherwise provided in Section 50-18.2, or except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow so as to project above any of the Imaginary Airspace surfaces described in Section 50-18.2.C.2. Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

D. DLH Land Use Safety Zoning

In order to carry out the purpose of Section 50-18.2, as set forth above, to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Airport, and, furthermore, to limit population and building density in the runway approach areas, thereby creating sufficient open space to protect life and property in case of an accident, there are hereby created and established the following Safety Zones, which restrict land use:

1. Safety Zone 1: All land designated as Safety Zone 1 on the Airport Zoning Map;
2. Safety Zone 2: All land designated as Safety Zone 2 on the Airport Zoning Map;
3. Safety Zone 2.5: All land designated as Safety Zone 2.5 on the Airport Zoning Map;
4. Safety Zone 3: All land designated as Safety Zone 3 on the Airport Zoning Map.

The land use zoning restrictions set forth in Section 50-18.2.D and E shall apply for a distance not to exceed one mile beyond the perimeter of the airport boundary and in the portion of an Airport Hazard Area under the approach zone for a distance not exceeding one and one-half (1½) miles from the airport boundary; said land use zoning boundary location and dimensions are indicated on the Airport Zoning Map.

E. DLH Use Restrictions

Table 50-19.8, Permitted Use Table, lists land uses and indicates whether they are allowed by right or with a special use permit, or prohibited in each base zone district. In addition to 50-19.8, in order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Duluth International Airport, and furthermore to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of accident, the following additional use restrictions are applied to the land use Safety Zones.

1. All Safety Zones. No use shall be made of any land in any of the Safety Zones which creates or causes interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.
2. Safety Zone 1. Areas designated as Safety Zone 1 shall contain no buildings, temporary structures, exposed transmission lines, or other similar above-ground land use structural hazards, and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include agricultural use, resource extraction use, horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (non-spectator), cemeteries, and automobile parking;
3. Safety Zone 2. The following classifications of building and structures as to use and occupancy according to the 2020 Minnesota State Building Code, or its successor, are prohibited: Group A Uses; Group E Uses; Group I-2 Uses; and Group R-1 Uses. Other uses not specifically prohibited by this section must be on a site whose area is at least two and one-half (2.5) acres. Each use shall not create, attract, or bring together a site population in excess of 20 persons per acre during the same time period; density as calculated pursuant to the 2020 Minnesota State Building Code, or its successor.
4. Safety Zone 2.5. The following classifications of building and structures as to use and occupancy are prohibited: Childcare or daycare centers; State licensed residential care facilities and housing with service establishments serving 7 or more persons; State licensed adult daycare facility serving 13 or more persons; State licensed group family daycare facility serving 13 or more children; public or private school; and public or private hospital.
5. Safety Zone 3: Areas designated as Safety Zone 3 are only subject to the restrictions set forth in Section 50-18.2.E.1, and as allowed in 50-19.8.

F. DLH Airport Zoning Map

The Airport Zoning Map, together with map and all notations, references, elevation, data, zone boundaries, and other information thereon, shall be referred to in this section are adopted in its entirety.

G. DLH Existing Uses and Structures

The regulations prescribed by Section 50-18.2 shall not be construed to require the removal, lowering, or other changes or alteration of any existing use, lot, structure, or tree or otherwise interfere with the continuance of any such use or structure, or tree after December 14, 2021.

H. DLH Permits and Orders to Remove Use or Structure or Tree

1. Permit Standards. Permit applications shall be made to the Land Use Supervisor pursuant to Sec. 50-37.13. . Copies of applications for permits shall be provided to the DAA.
2. Permit Required. The following structures or uses shall not be allowed in a Safety Zone 2 unless a Permit has first been approved pursuant to Sec. 50-37.13:
 1. Material expansion of an Existing Structure or Use. Permit required.
 2. New structures or uses. Permit required.
 3. Abandoned Non-Conforming Structure. Permit required for structure to be re-used, rebuilt or replaced.
 4. Substantially Damaged Non-Conforming Structure. Permit required to rebuild, repair, or replace.
 5. Material Change in Non-Conforming Use. Permit required before material change in use may occur.
3. Order to Remove Use, Structure, or Tree. Whether application is made for a Permit under this subdivision or not, the Land Use Supervisor may by appropriate action compel the owner of any Structure, use, or tree, at the owner's expense, to lower, remove, reconstruct, or equip the object as may be necessary to conform to the regulations of the Duluth International Airport Zoning Ordinance. If the owner of the Structure, use, or tree neglects or refuses to comply with the order for ten days after notice of the order, the Land Use Supervisor may take whatever lawful actions they deem necessary and appropriate to obtain compliance with the provisions of the Duluth International Airport Zoning Ordinance.

I. DLH Variances

Any person desiring to erect or increase the height of any structure, permit the growth of any tree, or use property in a way prohibited by this section, may apply for a variance as established in Section 9, 11, 12, and 14 of the Duluth International Airport Zoning Ordinance, created by the Duluth International Airport Joint Zoning Board, recorded in the St. Louis County Recorder's Office as Document Number 01432556.

J. DLH Hazard Marking and Lighting

The Land Use Supervisor or the Board of Adjustment for the Duluth International Airport Joint Airport Zoning Board (BOA) may condition any Permit or Variance granted so as to require the owner of the Structure or tree or use in question at their own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an Airport Hazards.

K. DLH Airport Zoning Administrator

It shall be the duty of the Land Use Supervisor to enforce the regulations prescribed by this section. Permit applications shall be made to the Land Use Supervisor for that jurisdiction. Copies of Permit applications shall be provided to the DAA. Permit applications shall be promptly considered and granted or denied pursuant to the regulations by the Land Use Supervisor. Variance applications shall be made to both the Land Use Supervisor and the BOA. Copies of Variance applications shall be provided to the DAA.

L. DLH Limited Land Use Exemption For Aeronautical Purposes

The restrictions of this section or any other section of the UDC shall not control the use of land or the height of structures on land owned by the City of Duluth, the State of Minnesota, the Duluth Airport Authority, or the United States of America and used by the Duluth Airport Authority solely for aeronautical purposes.

M. General, Conflicts

Where there exists a conflict between any of the regulations or limitations prescribed in this section and any other regulations applicable to the same area, the more stringent limitation or regulation shall govern and prevail.

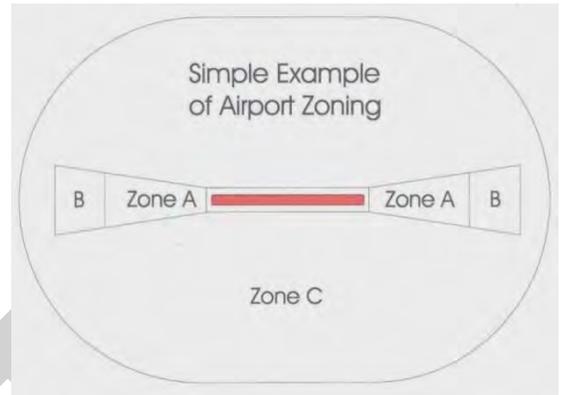
N. Sky Harbor Regional Airport, Safety Zones

For the Sky Harbor Regional Airport, the following land use safety zones are established:

1. Safety Zone A. All land in that portion of the approach zones of a runway, that extends outward from the end of primary surface a distance equal to $\frac{2}{3}$ of the planned length of the runway, which distance is 2,230 feet for Sky Harbor Regional Airport runway 14-32;
2. Safety Zone B. All land in that portion of the approach zones of a runway that extends outward from Safety Zone A a distance equal to $\frac{1}{3}$ of the planned length of the runway, which distance is 1,120 feet for Sky Harbor Regional Airport runway 14-32;
3. Safety Zone C. All that land that is enclosed within the perimeter of the horizontal zone and that is not included in Safety Zone A, Safety Zone B, or the exempted parcels referred to below.
4. Exemptions. Land uses that existed as of January 1, 1994, for Sky Harbor Regional Airport, and that were established residential neighborhoods in built-up urban areas on those dates, are subject to the height restrictions above, but are not subject to the additional restrictions in subsections 1 or 2 above. Land uses that came or come into existence after those dates, are treated as though they were or are not in a listed established residential neighborhood and are subject to the restrictions in subsections 1 or 2 above, as applicable based on the location of the property.

O. Sky Harbor Regional Airport, Land Use Restriction

1. General.
No use shall be made of any land in any land use safety zone that creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport or otherwise endangers the landing, taking off or maneuvering of aircraft;



2. Zone A.
Areas designated as Zone A shall contain no buildings, temporary structures, exposed transmission lines, or other similar above ground land use structural hazards, and shall be restricted to those uses that will not create, attract or bring together an assembly of more than 100 persons on the property. Permitted uses may include but are not limited to: agriculture (seasonal crops), horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (non spectator), cemeteries and automobile parking;
3. Zone B.
Areas designated as Zone B shall be restricted in use as follows:
 - (a) Each use shall be on a site of not less than three acres;
 - (b) Each use shall not create, attract or bring together a site population that would exceed 15 times that of the site acreage. Compliance with this subsection shall be determined by multiplying the number of required parking spaces for each use on the site by the vehicle occupancy rates for each use on the site, as provided in Table 50-18.2.-1;

TABLE 50-18.2-1: Vehicle Occupancy Rates	
Land Use	Vehicle Occupancy Rate
Industrial / Storage / Transportation	1.2
Educational	1.2
Health Care	1.7
Retail Store	1.5
Restaurant / Community and Cultural Facility / Recreational	2.0

Example: The site population for a 1,500 sq. ft. restaurant is calculated as follows: 15 (i.e., 1 parking space per 100 sq. ft.) X 2.0 (i.e., vehicle occupancy rate) = 30 people. Therefore, the site would need to be at least 2 acres in size to meet the 15 people / acre maximum site population limit.

- (c) Each site shall have no more than one building plot upon which any number of structures may be erected;
- (d) A building plot shall be a single, uniform and non-contrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area:

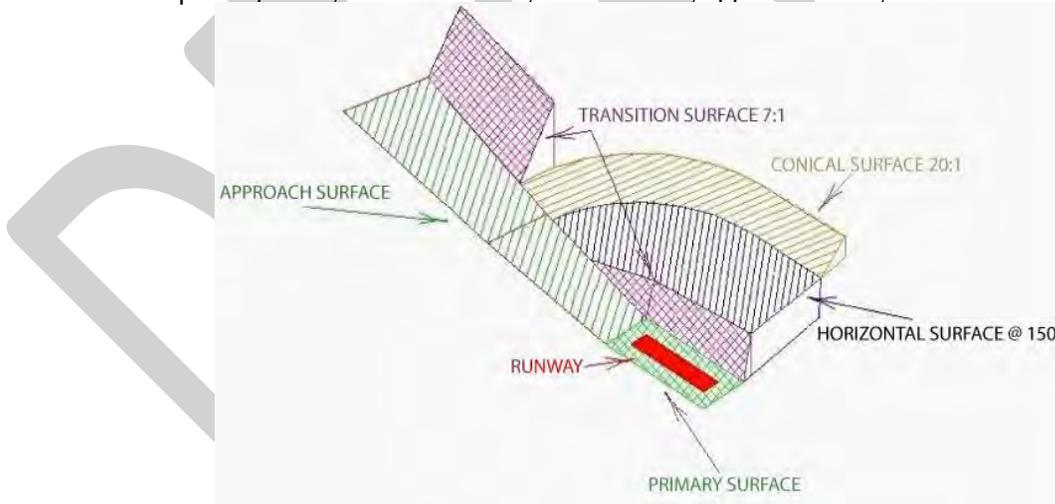
TABLE 50-18.2-2: Ratio of Site Area to Building Area		
Site area	Ratio of site area to building plot area	Building plot area (sq. ft)
3.00 – 3.99 acres	12:1	10,900
3:00 – 5.99 acres	10:1	17,400
6:00 – 9.99 acres	8:1	32,700
10:00 – 19.99 acres	6:1	72,600
20:00 acres or more	4:1	218,000

(e) The following uses are specifically prohibited in Zone B: churches, hospitals, schools, theaters, stadiums, hotels, motels, trailer courts, campgrounds and other places of frequent public or semi public assembly;

- 4. Zone C. Zone C is subject only to height restrictions set forth in subsection D above and to the general restrictions contained in subsection 1 above;

P. Sky Harbor Regional Airport (DYT), Land Affected

- 1. Air space zones. In order to carry out the purpose of this Section, the following air space zones are hereby established: primary zone, horizontal zone, conical zone, approach zone, and transitional zone;



- 2. Primary zone. All land that lying directly under an imaginary primary surface longitudinally centered on a runway and (a) extending 200 feet beyond each end of Sky Harbor Regional Airport Runway 14-32 and (b) coinciding with each end of Runway 14-32. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 500 feet for Sky Harbor Regional Airport Runway 14-32;

3. Horizontal zone.
All land lying directly under an imaginary horizontal surface 150 feet above the established airport elevation, or a height of 760 feet above mean sea level for Sky Harbor Regional Airport, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is 6,000 feet for Sky Harbor **Regional** Airport Runway 14-32;
4. Conical zone.
All land lying directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet as measured radially outward from the periphery of the horizontal surface;
5. Approach zone.
All land lying directly under a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to the end of a runway based on the type of approach available or planned for that runway.
 - (a) The inner edge of the approach surface is the width as the primary surface and it expands uniformly to a width of: (i) 1,250 feet for that end of a utility runway with only visual approaches; (ii) 1,500 feet for that end of a runway other than a utility runway with only visual approaches; (iii) 2,000 feet for that end of a utility runway with a nonprecision instrument approach; (iv) 3,500 feet for that end of a nonprecision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile; (v) 4,000 feet from that end of a nonprecision instrument runway, other than utility, having a nonprecision instrument approach with visibility minimums as low as three-fourths statute mile; and (vi) 16,000 feet for precision instrument runways;
 - (b) The approach surface extends for a horizontal distance of (i) 5,000 feet at a slope of 20:1 for all utility and visual runways; (ii) 10,000 feet at a slope of 34:1 for all nonprecision instrument runways other than utility, and (iii) 10,000 feet at a slope of 50:1 with an additional 40,000 feet at a slope of 40:1 for all precision instrument runways;
 - (c) The outer width of an approach surface to an end runway will be that width prescribed in this subsection 5 for the most precise approach existing or planned for that runway end;
6. Transitional zone.
All land lying directly under surfaces that extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surface that project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline;
7. Height restrictions.
Except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained or allowed to grow in any air space obstruction zone so as to project above any of the imaginary air space surfaces described in subsections 1 through 6. Where an area is covered by more than one height limitation, the more restrictive limitation shall apply;
8. Traverse ways.
For the purpose of determining height limits in this Section 50-18.2, traverse ways shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; ten feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all other traverse ways not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it;

Q. Sky Harbor **Regional** Airport, Variances

Variances to this section, as it applies to land on, near, or around the Sky Harbor Regional Airport, shall be administered as provided in 50-37.9.

DRAFT

50-36.4 Land use supervisor.

The land use supervisor is that individual responsible for administration of all aspects of this Chapter where specific authority has not been delegated to another city official or employee, and is responsible for exercising those powers to implement adopted plans through the review of applications described in MSA 462.356 subdivision 2 and MSA 462.359. The land use supervisor may delegate specific responsibilities to any individual city employee under the supervisor's management, but shall remain responsible for all decisions made by those employees. Except as otherwise provided in this Chapter or other law, the land use supervisor's authority shall extend to all zone districts. The land use supervisor's authority shall include, but shall not be limited to, the following:

- A. Planning review.
To approve, approve with modifications or deny applications for planning review pursuant to Section 50-37.11;
- B. Temporary and sidewalk use permit.
To approve, approve with modifications or deny applications for approval of a temporary or sidewalk use permit pursuant to Section 50-37.12;
- C. Review and recommendation.
To review and comment on any application for which a review role for the land use supervisor is shown in Table 50-35-1;
- D. Application manual and administrative procedure.
To prepare an applications manual and adopt administrative procedures to implement this Chapter.
- E. Airport environs permit.
Serve as the zoning administrator for the Duluth International Airport pursuant to the zoning regulations enacted by the joint airport zoning board and pursuant to MSA 360.063, subd. 3;

50-36.5 Building official.

The building official shall be responsible for ensuring that applications for the following permits and approvals are only issued if the application complies with (a) the provisions of this Chapter, as such provisions may have been modified by any variance approved by the planning commission, and (b) any district plan approved by the planning commission and applicable to the area where the permit or approval is sought. The building official may delegate specific responsibilities to any individual city employee under the official's management, but shall remain responsible for all decisions made by those employees. Except as otherwise provided in this Chapter or other law, the building official's authority shall extend to all zone districts. The building official's authority shall include, but shall not be limited to, the following:

A. Zoning permits.

Approve, approve with conditions or deny applications for zoning permits pursuant to Section 50-37.13. Conditions shall only be applied to bring the application into conformity with this Chapter and related administrative regulations. In the administration of the State Building Code on projects where no permit is required under this Chapter, the building official shall, to the extent feasible and practical, utilize the erosion and sediment practice specifications as guidelines for adequate erosion control;

B. ~~Airport environs permit.~~

~~Serve as the zoning administrator for the Duluth International Airport pursuant to the zoning regulations enacted by the joint airport zoning board and pursuant to MSA 360.063, subd. 3;~~

C. Building permits.

Approve, approve with conditions or deny applications for building permits pursuant to Section 50-37.15. Conditions shall only be applied to bring the application into conformity with this Chapter, the applicable building code(s) and related administrative regulations;

D. Certificates of occupancy.

Approve, approve with conditions or deny applications for certificates of occupancy pursuant to Section 50-37.16. Conditions shall only be applied to bring the application into conformity with this Chapter, the applicable building code(s) and related administrative regulations.

50-37.9 Variance.

This Section applies to applications for a variance from the terms and provisions of this Chapter. Different types of variances are subject to differing criteria for approval, and in many cases are also subject to limitations on the types of variances that can be granted.

A. Application.

An application for a variance shall be filed pursuant to Section 50-37.1.B;

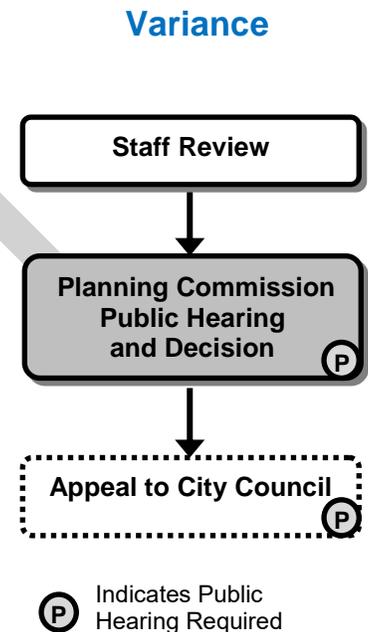
B. Procedure.

The planning commission shall review the application, conduct a public hearing on the application pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and shall make a decision on the application based on the criteria in subsections C through M below, as applicable to the specific type of variance being requested. The planning commission may grant a different variance or different form of relief than that requested by the applicant if it determines that the alternative relief better meets the criteria in subsections C through M below. The commission may impose appropriate conditions and safeguards to protect adjacent properties and the public interest, including but not limited to financial security pursuant to Section 50-37.2.P or a development agreement regarding the design, construction and operation of the project, to protect the comprehensive land use plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the variance will continue to be met. Constructing any improvement or beginning any activity authorized by the variance shall constitute the applicant's agreement to conform to all terms and conditions of the permit;

C. General variance criteria.

Unless different or inconsistent criteria or limitations are stated in subsections D through M below for the specific type of variance being requested, the planning commission shall approve an application for a variance, or approve it with conditions, if it finds that the proposed variance meets the following criteria. If there is a direct conflict between a provision or criteria in subsections D through M below and the general criteria in this subsection C, the provisions in subsections D through M shall govern:

1. Because of the exceptional narrowness, shallowness or shape of the applicant's property, or because of exceptional topographic or other conditions related to the property, the strict application of the requirements of this Chapter would result in practical difficulties to the property owner;
2. The plight of the property owner is due to circumstances unique to the property, and not created by the property owner or the property owners predecessors-in-interest;
3. The special circumstances or conditions applying to the building or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity;
4. The property owner proposes to use the property in a reasonable manner not permitted by this code;
5. The relief will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety or



- unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety or public welfare of the inhabitants of the city;
6. The relief may be granted without substantially impairing the intent of this Chapter and the official zoning map, and will not alter the essential character of the locality;
 7. The relief does not allow any type of sign that is not allowed in the zone district where the property is located, pursuant to Section 50-27;
 8. The relief complies with any additional limitations or criteria applicable to that variance in subsections D through M below;
 9. Economic considerations alone shall not constitute a practical difficulty;

D. No use variances.

No variance may be permitted to allow any use that is not listed in Table 50-19.8 as a permitted or special use in the zone district where the property is located, or Table 50-27.4 for a permitted sign in the district where the property is located;

E. Variances to lot size in unsewered areas.

A variance from the minimum lot size in unsewered area shall not be granted without presentation of a permit or letter of intent to issue a permit for onsite sewerage treatment from the county.

F. Variances for two-family dwellings in the R-1 district.

The commission shall not grant any variance from the requirements for the allowance of two-family dwellings within the R-1 zone district except:

1. A variance from the required front yard setback;
2. A variance reducing the minimum dimensional requirements by up to ten percent;

G. Variances from parking and loading regulations.

1. Residential districts.

(a) A variance may be granted to allow parking on a portion of a lot in a residential district where parking is not permitted by Section 50-24.6.B for lots meeting all the following:

- (i) The distance between the dwelling and the public right of way exceeds 18 feet; and
- (ii) The position of the principle structure on the lot does not permit access to the side or rear yard; and
- (iii) There is no improved alley or street providing access to the side or rear yard; and
- (iv) There is no permitted overnight parking on any street within 150 feet of the property;

(b) The variance shall be subject to the following conditions, and any other conditions determined by the commission to be reasonable and necessary to protect the interests of the abutting property owners and the residential character of the surrounding neighborhood:

- (i) The maximum variance that can be granted shall not exceed 55% of the lot width;
- (ii) A paved walkway at least 3 feet wide shall be provided that links the front entrance of the dwelling and the street;
- (iii) A wall, fence or dense vegetative screen at least 3 feet tall and at least 75% opaque must be provided to screen parked vehicles from view of abutting properties and the street, where screening the street view is possible;
- (iv) Barriers must be installed to prevent vehicles from overrunning the parking and driveway areas; such barrier may be a fence, wall or raised curbing (or concrete parking bumpers when secured to the underlying pavement);
- (v) A placard with a diagram no less than 5 inches by 7 inches showing the location and arrangement of parking spaces shall be visible at all times from the exterior of the dwelling; such placard shall be on all-weather media and installed on the front exterior door at an elevation of between 2 feet and 6 feet above the threshold;

2. Reducing required parking spaces.

Except as provided in 50-37.9.G, variances from the minimum amount of off-street parking required may be approved if a smaller amount of off-site parking will be adequate to meet the needs of the

facility because the facility is restricted to occupancy or use by populations with documented lower vehicle uses, such as the elderly or disabled;

3. Exceeding required parking spaces.

Variances from the maximum parking limits provided in 50-24.4 shall not exceed 200 percent of the minimum requirement provided in Table 50-24.1. In addition to meeting the general variance criteria in 50-37.9C, a parking study that provides justification for the number of off-street parking spaces proposed is required. It must include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE), or other acceptable estimates as approved by the City Engineer and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The study must document the source of data used to develop the recommendations.

H. Variances to reduce setbacks;

When the application is for the reduction of a required front, rear or side yard setback, the commission may require the submission of a landscaping and buffering plan, and may require that all required landscaping or buffering, or landscaping and buffering of equal effectiveness, be installed within the reduced setback area. Decorative fencing and decorative wall structures may be proposed where more intense vegetated landscaping will not provide adequate mitigation of impacts on adjacent properties. The commission shall only approve the variance if the landscaping and buffering will mitigate impacts on adjacent properties as effectively as those required by Sections 50-25 and 50-26 of this Chapter;

I. Variances in the MU-C district.

1. Within the MU-C district, the only variances that may be approved are variations in any dimensional standard in Sections 50-15.3 and 50-21 by no more than ten percent. However, if the need for a variance is the result of a government taking pursuant to eminent domain powers, then (a) the limits of this subsection I.1 shall not apply and (b) all or part of the required landscaping and buffering may be placed in the public right-of-way if the property owner executes a perpetual maintenance agreement with the owner of the right-of-way;
2. In the case of a setback reduction variance, the landscaping and buffering in any reduced setback area shall be at least four feet in height and screen out at least 50 percent of the view of any parking area, unless the setback is reduced to less than five feet, in which case it shall screen out at least 75 percent of the view of the parking area;

J. Variances in A-O airport overlay district.

~~Variances shall be pursuant to and consistent with the procedures in the Duluth International Airport Zoning Ordinance adopted by the city and four other jurisdictions, and in the event of an inconsistency between that Airport Zoning Ordinance and this Chapter, the provisions of the Airport Zoning Ordinance shall govern;~~

Variances within the A-O at the Duluth International Airport (DLH) shall be pursuant to and consistent with the procedures in the Duluth International Airport Zoning Ordinance, created by the Duluth International Airport Joint Zoning Board, effective date October 6, 2021, recorded in the St. Louis County Recorder's Office as Document Number 1432556. Variances within the A-O at the Sky Harbor Regional Airport shall be pursuant to and consistent with the procedures of 50-37.9.B.

K. Variances from flood plain regulations.

Variances to the flood plain regulations in Section 50-18.1.C shall only be granted in compliance with the limitations in this subsection K.

1. In a floodway:
 - a) No variance shall be granted that would result in any increase in flood levels during the base flood discharge;
 - b) No variance shall authorize the placement of a manufactured home, dwelling unit or any structure designed for human habitation;
 - c) No variance shall be granted authorizing a lesser degree of floodproofing or flood protection than is required by Section 50-18.1.C;
 - d) Variances shall be limited to giving the applicant a minimal reasonable use of the site;
2. In a flood fringe:
 - a) No variance shall authorize a lesser degree of floodproofing or flood protection than is required by Section 50-18.1.C;
 - b) Variances shall not produce any adverse effects to the flood capacity or efficiency of the watercourse;
3. Flood insurance notice and recordkeeping.

The building official shall notify the applicant for a variance that:

 - a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - b) Construction below the 100 year or regional flood level increases risks to life and property. Such copy notification shall be maintained with a record of all variance actions. The building official shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the administrator of the national flood insurance program;
4. General considerations.

The city shall consider the following factors in granting variances and imposing conditions on permits and variances in flood plains:

 - a) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
 - b) The danger that materials may be swept onto other lands or downstream to the injury of others;
 - c) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
 - d) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
 - e) The importance of the services to be provided by the proposed use to the community;
 - f) The requirements of the facility for a waterfront location;
 - g) The availability of viable alternative locations for the proposed use that are not subject to flooding;
 - h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
 - i) The relationship of the proposed use to the comprehensive land use plan and flood plain management program for the area;
 - j) The safety of access to the property in times of flood for ordinary and emergency vehicles; and
 - k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site;

5. Submittal of hearing and decision notices to the DNR.
 - a) The planning commission shall submit to the commissioner of the DNR a copy of the application for proposed variance sufficiently in advance so that the commissioner will receive at least ten days' notice of the hearing. Such notice shall specify the time, place, and subject matter of the hearing and shall be accompanied by such supporting information as is necessary to indicate the nature and effect of the proposed use. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist;
 - b) A copy of all decisions granting variances shall be forwarded to the commissioner of the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist;

6. Additional federal emergency management agency conditions.
The following additional conditions of FEMA must be satisfied:
 - a) Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
 - b) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

7. Conditions attached to variances,
Upon consideration of the factors listed above and the purpose of this Section, the planning commission may attach such conditions to the granting of variances and permits as it deems necessary to fulfill the purposes of this Section. Such conditions may include, but are not limited to, the following:
 - a) Modification of waste treatment and water supply facilities;
 - b) Limitations on period of use, occupancy, and operation;
 - c) Imposition of operational controls, sureties, and deed restrictions;
 - d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures; and
 - e) Floodproofing measures, in accordance with the State Building Code and this chapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors;

L. Standards for variances in shorelands.

No variance shall be granted that compromises the general purposes or intent of Section 50-18.1.D or results in adverse consequences to the environment. Variances shall include a requirement for the applicant to mitigate the impacts of the variance on shoreland areas;

M. Reconstruction of a nonconforming building.

A variance may be granted to permit the reconstruction of a nonconforming building that has been damaged from any cause or has deteriorated to the extent of more than 60 percent of its assessed market value as determined by the city assessor, if the commission determines that it is necessary for the preservation and enjoyment of a substantial property right and is not detrimental to the public welfare of the city.

50-13.3 Zoning permit.

This Section applies to a variety of permits covering development, redevelopment, and natural resources protection where the land use is a permitted use and the city must confirm whether the application complies with all other applicable provisions of this Chapter. The specific permits included in this Section are summarized in Table 50-37.13-1 below.

Table 50-37.13-1: Types of Zoning Permits	
Type of Permit	Primary Compliance Requirement
Flood Plain Permit	Floodplains (Subsection 50-18.1.C)
Shoreland Permit	Shorelands (Subsection 50-18.1.D)
Erosion and Sediment Control Permit	Temporary Soil and Erosion Control (Subsection 50-18.1.E)
Temporary Use Permit	Temporary Land Uses (Sections 50-19, 50-20.6)
Sign Permit	Signs (Section 50-27)
Fence Permit	Fences and Walls (Section 50-26.4)
Airport Environs Permit	A-O Airport Environs Overlay district (Section 50-18.2)

A. Application.

An application for a zoning permit shall be filed pursuant to Section 50-37.1.B;

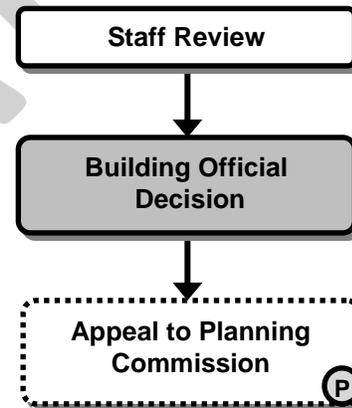
B. Procedure.

1. The building official shall review and make a decision on an application for a zoning permit based on the criteria in subsection C below. The building official may refer the application to any city, county or other public or quasi-public agency deemed necessary to confirm whether the criteria in subsection C have been met;
2. All buildings, structures and improvements must be constructed and maintained, and all land uses must be operated, in accordance with the terms and conditions of this Chapter and any zoning permit issued pursuant to this Section 50-37.13;

C. General criteria.

The building official shall approve the application, or approve it with modifications, if the building official determines that the application complies with all applicable provisions of this Chapter;

Zoning Permit



(P) Indicates Public Hearing Required

D. Additional provisions for specific areas and types of permits.

1. Shoreland permit.

No building or zoning permit for land within any shoreland shown on the Natural Resources Overlay map in Section 50-18.1 may be issued until the building official has confirmed that the application complies with all applicable requirements of Section 50-18.1.D;

2. Erosion and sediment control permit (ESCP).

No land disturbance activity that requires an erosion and sediment control permit (ESCP) as indicated in Table 50-18.1.E-1 may be begin until a permit has been obtained. The building official shall refer the application to the city engineer, who shall review the plan to ensure that it complies with the requirements of Section 50-18.1.E. The city engineer may require additional information and may require that any information submitted be verified by a licensed engineer, licensed surveyor or other technical professional. If the application is denied, the applicant shall be given a summary of the plan's deficiencies. The ESCP permit shall be considered expired only after all construction activities are completed and the entire site is fully stabilized with 70 percent successful establishment of vegetation;

3. Airport environs permit.

No airport environs permit shall be issued unless all of the requirements of Section 50-18.2 have been met. A permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour or topographic features, would violate the provisions of Section 50-18.2. The following structures or uses shall not be allowed in a Safety Zone 2 unless a Permit has first been approved pursuant to Sec. 50-37.13:

- a) Material expansion of an Existing Structure or Use. Permit required.
- b) New structures or uses. Permit required.
- c) Abandoned Non-Conforming Structure. Permit required for structure to be re-used, rebuilt or replaced.
- d) Substantially Damaged Non-Conforming Structure. Permit required to rebuild, repair, or replace.
- e) Material Change in Non-Conforming Use. Permit required before material change in use may occur.

4. Flood plain permit.

No building or zoning permit for land within any flood plain shown on the Natural Resources Overlay map in Section 50-18.1 may be issued until the building official has confirmed that the application complies with all applicable requirements of Section 50-18.1.C.

DULUTH INTERNATIONAL AIRPORT

ZONING ORDINANCE

CREATED BY THE DULUTH INTERNATIONAL AIRPORT

JOINT ZONING BOARD

Formed by and Comprised of:

CITY OF DULUTH

CITY OF HERMANTOWN

TOWNSHIP OF CANOSIA

CITY OF RICE LAKE

ST. LOUIS COUNTY

EFFECTIVE DATE: October 6, 2021

THIS ORDINANCE AMENDS AND ENTIRELY REPLACES

DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE dated June 18, 1988,

recorded in the Office of the St. Louis, Minnesota, County Recorder as

Document No. 0456132

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DULUTH INTERNATIONAL AIRPORT
ZONING ORDINANCE

CREATED BY THE

CITY OF DULUTH – CITY OF HERMANTOWN – CANOSIA TOWNSHIP
CITY OF RICE LAKE – ST. LOUIS COUNTY
JOINT AIRPORT ZONING BOARD

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE DULUTH INTERNATIONAL AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING TERMS USED HEREIN; REFERRING TO THE DULUTH INTERNATIONAL AIRPORT ZONING MAPS WHICH ARE INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES.

IT IS HEREBY ORDAINED BY THE DULUTH INTERNATIONAL AIRPORT JOINT AIRPORT ZONING BOARD COMPRISED OF THE CITY OF DULUTH – CITY OF HERMANTOWN – CANOSIA TOWNSHIP – CITY OF RICE LAKE – ST. LOUIS COUNTY PURSUANT TO THE AUTHORITY CONFERRED BY THE MINNESOTA STATUTES 360.061 – 360.074, AS FOLLOWS:

SECTION 1: PURPOSE AND AUTHORITY

The Duluth International Airport Joint Airport Zoning Board, created and established by joint action of the City Councils of Duluth, Rice Lake, and Hermantown, and the Board of County Commissioners of St. Louis County, and the Town Board of Canosia pursuant to the provisions and authority of Minnesota Statutes 360.063, hereby finds and declares that:

- A. The Duluth International Airport is an essential public facility.
- B. An Airport Hazard endangers the lives and property of users of the Duluth International Airport, and property or occupants of land in its vicinity, and also if the obstructive type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Duluth International Airport and the public investment therein.
- C. The creation or establishment of an Airport Hazard is a public nuisance and an injury to the region served by the Duluth International Airport.
- D. For the protection of the public health, safety, order, convenience, prosperity and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of Airport Hazards.
- E. The prevention of these Airport Hazards and Aircraft Accidents should be accomplished, to the extent legally possible, by the exercise of the police power without compensation

SECTION 2: SHORT TITLE

This Ordinance shall be known as “Duluth International Airport Zoning Ordinance.” Those sections of land affected by this Ordinance are indicated in “Exhibit A” which is attached to this Ordinance.

SECTION 3: DEFINITIONS

For the purposes of this Ordinance, the following words, terms, and phrases shall have the meanings herein given unless otherwise specifically defined by Minnesota Statutes Chapter 360 (Airports and Aeronautics), Section 360.013 (Definitions), and its successors.

Abandoned Structure – a Non-Conforming Structure that has not been legally occupied or used for any commercial or residential purpose for at least one consecutive year as determined by the Local Airport Zoning Administrator.

Abandoned Use – a Non-Confirming Use that has ceased to have been actively conducted for at least one (1) consecutive year as determined by the Local Airport Zoning Administrator.

Agricultural Uses - land used primarily for the production of crops or livestock including irrigated meadows, irrigated and dry pasture, irrigation ditches, stock drive routes, lands used for barns, corrals and storage of crops or agricultural products, but not including lands used primarily for the production of commercial timber; or

Aircraft - any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, but excluding parachutes. (Minn. Stat. 360.013)

Aircraft Accident -an occurrence incident to flight in which, because of the operation of an aircraft, a person (occupant or non-occupant) receives fatal or serious injury or an aircraft receives substantial damage. Except as provided below, substantial damage means damage or structural failure that adversely affects the structural strength, performance, or flight characteristics of the aircraft, and which would normally require major repair or replacement of the affected component. Engine failure, damage limited to an engine, bent fairings or cowling, dented skin, small puncture holes in the skin or fabric, ground damage to rotor or propeller blades, damage to landing gear, wheels, tires, flaps, engine accessories, brakes, or wingtips are not considered substantial damage.

Airport- the Duluth International Airport lands located in Sections 1, 2, 3, 11, 12, Township 50, Range 15; Section 6, Township 50, Range 14; and Section 31, Township 51, Range 14 that is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas that are used, or intended for use, for airport buildings or other airport facilities or rights of way, together with all airport buildings and facilities located thereon.

Airport Boundary - those lands including the property owned by the City of Duluth, by the Government of the United States, and by the State of Minnesota and their respective subdivisions which are used for aeronautical purposes and are contiguous with the runway and building area facilities. The airport boundaries are illustrated in the Airport Property Map of the approved set of Airport Layout Plans on file in the offices of the Duluth Airport Authority.

Airport Elevation -the established elevation of the highest point on the usable landing area which elevation is established to be 1,428 feet above mean sea level.

Airport Hazard -any structure, object of natural growth, or use of land, which obstructs the air space required for the flight of aircraft in landing or taking off at any airport or restricted landing area or is otherwise hazardous to such landing or taking off. (Minn. Stat. 360.013)

Airport Safety Zone - an area subject to land use zoning controls adopted under Minnesota Statutes sections 360.061 to 360.074 if the zoning controls regulate (1) the size or location of buildings, or (2) the density of population. (Minn. Stat. 394.22, Subd. 1(a))

Airport Zoning Map- the Duluth International Airport Zoning Map prepared by RS&H, and adopted and attached hereto as Exhibit C of the Duluth International Airport Zoning Ordinance.

Airspace Zones – the Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone, whose locations and dimensions are indicated on the Airport Zoning Map

Airspace Surface or Imaginary Surface - The imaginary areas in space and on the ground that are established by this Ordinance and/or the FAA in relation to the Duluth International Airport and its runways as the basis for regulating obstructions to air travel.

Approach Zone - All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of the runway. The inner edge of the approach surface is at the same width and elevations as, and coincides with, the end of the primary surface; as illustrated in Airport Zoning Map.

Board of Adjustment – Board of Adjustment for the Duluth International Airport Joint Airport Zoning Board.

Building -Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind, and when separated by party or division walls without openings, each portion of such building so separated shall be deemed a separate building.

Commissioner - the commissioner of transportation of the State of Minnesota. (Minn. Stat. 360.013)

Conical Zone - all that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of approximately 4,000 feet from the end of Runway 9-27 and Runway 3-21 as measured radially outward from the periphery of the horizontal surface; whose location and dimensions are indicated on the Airport Zoning Map

Department - the Minnesota Department of Transportation. (Minn. Stat. 360.013)

Dwelling - any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

Duluth Airport Authority (“DAA”) – A political subdivision of the State of Minnesota established pursuant to Minnesota Laws of 1969, Chapter 577 for the purpose of controlling and managing City of Duluth airport facilities. DAA has the exclusive power to receive, control, and order the expenditure of any and all moneys and funds in the control and management of the City of Duluth airport facilities.

Duluth International Airport Joint Airport Zoning Board (“JAZB”) – The joint airport zoning board established pursuant to the authority conferred by Minnesota Statutes Sections 360.061-

360.074 comprised of appointed representatives of the St. Louis County, City of Duluth, City of Hermantown, Canosia Township, and the City of Rice Lake.

Entities or, individually, Entity – mean the Cities of Hermantown, Duluth, Rice Lake, Canosia Township and County of St. Louis, Minnesota.

Federal Aviation Administration (FAA) – A federal agency charged with regulating air commerce to promote its safety and development; encourage and develop civil aviation, air traffic control, and air navigation; and promoting the development of a national system of airports.

Federal Aviation Regulations (FAR) – Regulations established and administered by the FAA that govern civil aviation and aviation-related activities.

FAR Part 36 – Regulation establishing noise standards for the civil aviation fleet.

FAR Part 77 – Objects Affecting Navigable Airspace - Part 77 (a) establishes standards for determining obstructions in navigable airspace; (b) defines the requirements for notice to the FAA Administrator of certain proposed construction or alteration; (c) provides for aeronautical studies of obstructions to air navigation to determine their effect on the safe and efficient use of airspace; (d) provides for public hearings on the hazardous effect of proposed construction or alteration on air navigation; and (e) provides for establishing antenna farm areas.

Group A Use – means assembly, churches, restaurants, movie theaters, banquet halls, bars, art galleries, casinos, bowling alleys, dance halls, funeral parlors, gymnasiums, indoor pools/tennis courts, lecture halls, museums, arenas, skating rinks, bleachers, grandstands, stadiums as described in the 2018 International Building Code, as may be revised from time to time.

Group E Use – means education use of a building by six or more at any one time for educational purposes through twelfth grade, daycare facilities for more than five children older than two and one-half years old for fewer than twenty-four hours per day as described in the 2018 International Building Code, as may be revised from time to time.

Group I-2 Use – means buildings used for medical care on a twenty-four hour basis for more than five persons who are incapable of self-preservation. Examples include detoxification, foster care, hospital, nursing homes and other supervised living facilities as described in the 2018 International Building Code, as may be revised from time to time.

Group R-1 Use – means residential occupancies containing sleeping units where occupants are primarily transient. Examples include B&Bs with more than six guest rooms, boarding homes with more than ten occupants, and congregate living with more than ten units, and hotels/motels as described in the 2018 International Building Code, as may be revised from time to time.

Hazard to Air Navigation - any object that has a substantial adverse effect upon the safe and efficient use of navigable airspace. Any obstruction to air navigation is presumed to be a hazard to air navigation unless an FAA aeronautical study has determined otherwise.

Height of Building - the vertical distance measured from the highest ground elevation adjoining the front wall of the building to the highest point of the building

Height of Tower or Structure - the vertical distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightening protection device.

Horizontal Surface - all that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation; whose location and dimensions are indicated on the Airport Zoning Map.

Hospital - an institution that is built, staffed, and equipped for the diagnosis of disease; for the medical and surgical treatment of in-patients whether they be sick or injured and for their overnight housing during this process. Hospital services include the care and treatment of non-ambulatory patients, intensive care units and acute care services. Outpatient surgery and other treatment centers where overnight stays are provided are not hospitals for the purposes of this definition.

Industrial Use - the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities or other wholesale items.

Land - Ground, soil, or earth, including structures on, above, or below the surface.

Landing Area - means the area of the airport used for the landing, taking off or taxiing of aircraft.

Local Airport Zoning Administrator - the person or position designated in the Local Airport Zoning Ordinance to administer and enforce the Local Airport Zoning Ordinance within their political subdivision

Local Airport Zoning Ordinance – means the ordinances as adopted by the City of Hermantown, City of Rice Lake, City of Duluth, Canosia Township, and St. Louis County and codified as a zoning ordinance of that political subdivision.

Material Change in Use – means that there is a change in the purposes for which the circumstances in which a building or property is used.

Material Expansion – means an increase in the floor or building coverage area or volume of an existing building.

Navigable Airspace - airspace at and above the minimum flight altitudes prescribed in the FAR's including airspace needed for safe takeoff and landing (refer to FAR Part 77 and 91).

Non-Conforming Lot - a lot of record created prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

Non-Conforming Structure - any structure constructed, converted or adopted for a use prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

Non-Conforming Use - any use of a structure or land or arrangement of land and structures existing prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

Non-Precision Instrument Runway - a runway having an existing or Planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are Planned.

Ordinance- This Duluth International Airport Zoning Ordinance, including all exhibits, appendices, and maps attached hereto.

Obstruction - Any structure, tree, plant or other object of natural growth that penetrates one or more of the applicable Navigable Airspaces, imaginary surfaces, or imaginary zones defined and illustrated in this Ordinance.

Permit- type of written authorization that must be granted by a government or other regulatory body before any activity regulated by the Local Airport Zoning Ordinance can legally occur.

Person - any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof. (Minn. Stat. 360.013)

Planned - as used in this Ordinance refers only to those proposed future airport developments that are so indicated on a planning document having the approval of the Federal Aviation Administration, the Department of Transportation, Division of Aeronautics, and Duluth Airport Authority.

Precision Instrument Approach Zone - all that land which lies directly under an existing or Planned imaginary precision instrument approach surface longitudinally centered on the extended centerline at each end of Precision Instrument Runways 9-27 and 3-21, The inner edge of the precision instrument approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The precision instrument approach surface inclines upward and outward at a slope of 50:1 for a horizontal distance of approximately 10,000 feet expanding uniformly to a width of approximately 4,000 feet, then continues upward and outward for an additional horizontal distance of approximately 40,000 feet at a slope of 40:1 expanding uniformly to an ultimate width of approximately 16,000 feet; whose location and dimensions are indicated on the Airport Zoning Map

Precision Instrument Runway - a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), a Microwave Landing System (MLS), or a Precision Approach Radar (PAR), a Transponder Landing System (TLS), or a satellite-based system capable of operating to the same level of precision guidance provided by the other included systems. Also, a runway for which such a precision instrument approach system is Planned.

Primary Zone -All that land which approximately lies directly under an imaginary primary surface longitudinally centered on a runway and extending 200 feet beyond each end of Runways 9-27 and 3-21. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline; whose location and dimensions are indicated on the Airport Zoning Map

Public Assembly Use – A structure or outdoor facility where concentrations of people gather for purposes such as deliberation, education, shopping, business, entertainment, amusement, sporting events, or similar activities, but excluding air shows. “Public assembly use” does not include places where people congregate for relatively short periods of time, such as parking lots and bus stops, or uses approved by the FAA in an adopted airport master plan.

Public, Civic and Institutional Uses - uses of a public, quasi-public, nonprofit, or charitable nature generally providing a local service to the people of the community. Generally, these uses provide the service on-site or have employees at the site on a regular basis. The service is ongoing, not just for special events. This use category includes the following use types:

- a) Community centers or facilities that have membership provisions or are open to the general public to join at any time; and
- b) Facilities for the provision of public services, including governmental offices and public safety and emergency response services, such as police, fire and ambulance services. Such facilities often need to be located in or near the area where the service is provided.

Religious Assembly - a facility or area for people to gather for public worship, religious training or other religious activities including a church, temple, mosque, synagogue, convent, monastery or other structure, together with its accessory structures, including a parsonage or rectory. This use does not include home meetings or other religious activities conducted in a privately occupied residence. Accessory uses may include meeting rooms and childcare provided for persons while they are attending assembly functions.

Resource Extraction Use - uses involved in the process of (1) removing or extracting minerals and building stone from naturally occurring veins, deposits, bodies, beds, seams, fields, pools or other concentrations in the earth's crust, including the preliminary treatment of such ore or building stone; and (2) the extraction, exploration or production of oil or natural gas resources, including oil and gas wells and accessory offices, storage buildings, rig camps and gas transmission lines.

Runway - any existing or Planned paved surface or turf-covered area of the airport that is specifically designated and used or Planned to be used for aircraft landing and takeoff.

Safety Zone – The land use safety zones (Zones 1, 2 and 3) established by this Ordinance further illustrated in the Airport Zoning Map. *See also* Airport Safety Zone.

Site - a parcel or several adjoining parcels of land under common ownership.

Slope - an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude. (e.g., slope = 3:1 = 3 feet horizontal to 1 foot vertical).

Structure - Structure. Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground.

Structural Alteration - Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial changes in the roofs or exterior walls but not including openings in bearing walls as permitted by existing ordinances

Substantial Damage -Damage of any origin sustained by a Non-Conforming Structure where the cost of restoring the structure to its before damaged condition would equal or exceed 60 percent of the assessed market value of the structure as determined by the St. Louis County Assessor before the damage occurred. For flood plain management and flood hazard purposes, substantial damage shall occur when damage of any origin sustained by a structure, where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent

of the assessed market value of the structure as determined by the St Louis County Assessor before the damage occurred.

Substantially Damaged Structure – means a Non-Conforming Structure that has sustained Substantial Damage.

Transitional Zone - All that land which lies directly under an imaginary transitional surface extending upward and outward at right angles to the runway centerline and the runway centerline extended at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surface. Transitional surfaces for those portions of the instrument approach surface which project through and beyond the limits of the conical surface, extend a distance of approximately 5,000 feet measured horizontally from the edge of the instrument approach surface and at right angles to the extended instrument runway centerline; whose location and dimensions are indicated on the Airport Zoning Map.

Traverse Ways - roads, railroads, trails, waterways, or any other avenue of surface transportation.

Utility Runway - a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less and which runway is less than 4,900 feet in length.

Variance – Any modification or variation of application of this Ordinance to a real property structure or use approved in writing by the BOA.

Visual Runway - a runway intended solely for the operation of aircraft using visual approach procedures, with no existing or Planned instrument approach procedures.

Zoning – the partitioning of land parcels in a community by ordinance into zones and the establishment of regulations in the ordinance to govern the land use and the location, height, use and land coverage of buildings within each zone.

SECTION 4: AIRSPACE OBSTRUCTION ZONING

- A. **BOUNDARY LIMITATION:** The airspace obstruction height zoning restrictions set forth in this section shall apply for a distance not to exceed one-and-one-half (1.5) miles beyond the perimeter of the Airport boundary; said boundary location and dimensions are indicated on the Airport Zoning Map.
- B. **AIRSPACE ZONES:** Airspace Zones are established to regulate and protect aircraft from navigational hazards during landings and departures. In order to carry out the purposes of this Ordinance, the following Imaginary Airspace Zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone, all whose locations and dimensions are indicated on the Airport Zoning Map.
- C. **HEIGHT RESTRICTIONS:** Except as otherwise provided in the Ordinance, or except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow so as to project above any of the Imaginary Airspace surfaces described in this Section 4(B) . Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

SECTION 5: LAND USE SAFETY ZONING

SAFETY ZONE BOUNDARIES INTENT AND SCOPE: In order to carry out the purpose of this Ordinance, as set forth above, to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Airport, and, furthermore, to limit population and building density in the runway approach areas, thereby creating sufficient open space to protect life and property in case of an accident, there are hereby created and established the following Safety Zones, which restrict land use:

- A. **SAFETY ZONE 1:** All land designated as Safety Zone 1 on the Airport Zoning Map and as legally described in Exhibit B.
- B. **SAFETY ZONE 2:** All land designated as Safety Zone 2 on the Airport Zoning Map and legally described in Exhibit B.
- C. **SAFETY ZONE 2.5:** All land designated as Safety Zone 2.5 on the Airport Zoning Map and legally described in Exhibit B.
- D. **SAFETY ZONE 3:** All land designated as Safety Zone 3 on the Airport Zoning Map and legally described in Exhibit B.
- E. **BOUNDARY LIMITATIONS:** The land use zoning restrictions set forth in this Section 5 shall apply for a distance not to exceed one mile beyond the perimeter of the airport boundary and in the portion of an Airport Hazard Area under the approach zone for a distance not exceeding one and one-half (1½) miles from the airport boundary; said land use zoning boundary location and dimensions are indicated on the Airport Zoning Map.

F. USE RESTRICTIONS

In order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Duluth International Airport, and furthermore to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of accident, the following use restrictions are applied to the land use Safety Zones:

- 1. **ALL SAFETY ZONES:** No use shall be made of any land in any of the Safety Zones which creates or causes interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.
- 2. **SAFETY ZONE 1:** Areas designated as Safety Zone 1 shall contain no buildings, temporary structures, exposed transmission lines, or other similar above-ground land use structural hazards, and shall be restricted to those

uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include Agricultural Use, Resource Extraction Use, horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (non-spectator), cemeteries, and automobile parking.

3. **SAFETY ZONE 2:**

3.1 Specific Prohibited Uses. The following classifications of building and structures as to use and occupancy are prohibited in Safety Zone 2:

3.1.1 Group A Uses;

3.1.2 Group E Uses;

3.1.3 Group I-2 Uses; and

3.1.4 Group R-1 Uses.

3.2 Density Limitation. Other uses not specifically prohibited by Section 3.1 must be on a site whose area is at least two and one-half (2.5) acres. Each use shall not create, attract, or bring together a site population in excess of 20 persons per acre during the same time period; density as calculated pursuant to the 2020 Minnesota State Building Code, or its successor.

4. **SAFETY ZONE 2.5:**

4.1 Specific Prohibited Uses. The following classifications of building and structures as to use and occupancy are prohibited in Safety Zone 2.5;

4.1.1 Childcare or daycare centers;

4.1.2 State licensed residential care facilities and housing with service establishments serving 7 or more persons;

4.1.3 State licensed adult daycare facility serving 13 or more persons;

4.1.4 State licensed group family daycare facility serving 13 or more children;

4.1.5 Public or private school.

4.1.6 Public or private Hospital.

5. **SAFETY ZONE 3:** Areas designated as Safety Zone 3 are only subject to the restrictions set forth in this Section 5(E)(1).

SECTION 6: AIRPORT ZONING MAP

The Zones established in this Ordinance are shown on the Airport Zoning Map attached hereto as Exhibit C and made a part hereof. The Airport Zoning Map, together with map and all notations, references, elevation, data, zone boundaries, and other information thereon, shall be referred to in this Ordinance is hereby adopted in its entirety as part of this Ordinance.

SECTION 7: EXISTING USES AND STRUCTURES AS OF ENACTMENT

- A. **THIS ORDINANCE AND ANY LOCAL AIRPORT ZONING ORDINANCE NOT RETROACTIVE:** The regulations prescribed by this Ordinance and any Local Airport Zoning Ordinance shall not be construed to require the removal, lowering, or other changes or alteration of any existing use, lot, structure, or tree or otherwise interfere with the continuance of any such use or Structure, or tree after the Effective Date (Section 21 – EFFECTIVE DATE) of this Ordinance.
- B. **ACQUISITION IN SAFETY ZONES:** The Airport is an essential public facility. The DAA or City of Duluth may acquire land at their own expense for the purposes of preventing and/or reducing Airport Hazards and Aircraft Accidents.

SECTION 8: PERMITS; AND ORDERS TO REMOVE USE OR STRUCTURE, OR TREE

- A. **PERMIT STANDARDS.** Permit applications shall be made in the manner and on the form established by the Local Airport Zoning Administrator pursuant to their applicable Local Airport Zoning Ordinance. Each Permit application shall indicate the purpose for which the Permit is desired, with sufficient information with respect to the proposed project to allow a determination as to whether it conforms to the applicable Local Airport Zoning Ordinance. If such determination is in the affirmative, the Permit shall be granted. Copies of applications for permits shall be provided to the DAA.
- B. **PERMIT REQUIRED.** The following structures or uses shall not be allowed in a Safety Zone 2 unless a Permit has first been submitted to and granted by the Local Airport Zoning Administrator for that jurisdiction:
1. Material expansion of an Existing Structure or Use. Permit required.
 2. New structures or uses. Permit required.
 3. Abandoned Non-Conforming Structure. Permit required for structure to be re-used, rebuilt or replaced.
 4. Substantially Damaged Non-Conforming Structure. Permit required to rebuild, repair, or replace.
 5. Material Change in Non-Conforming Use. Permit required before material change in use may occur.
- C. **ORDER TO REMOVE USE, STRUCTURE, OR TREE.** Whether application is made for a Permit under this subdivision or not, the Local Airport Zoning Administrator may by appropriate action compel the owner of any Structure, use, or tree, at the owner's expense, to lower, remove, reconstruct, or equip the object as may be necessary to conform to the regulations of the applicable Local Airport Zoning Ordinance. If the owner of the Structure, use, or tree neglects or refuses to comply with the order for ten days after notice of the order, the Local Airport Zoning Administrator may take whatever lawful actions they deem necessary and appropriate to obtain compliance with the provisions of the applicable Local Airport Zoning Ordinance.

SECTION 9: VARIANCES

- A. **APPLICATION.** Any person desiring to erect or increase the height of any Structure, permit the growth of any tree, or use property in a way prohibited by the applicable

Local Airport Zoning Ordinance may apply to both the Local Airport Zoning Administrator and the BOA for a Variance from such regulations. Variance applications shall be made in the manner and on the form established by the Local Airport Zoning Administrator. The Local Zoning Administrator may also establish, collect, and retain a Variance application fee. Variance applications shall be delivered to the Local Airport Zoning Administrator, who shall then deliver the Variance application to the BOA and DAA. The Variance applications may only be made after the Local Airport Zoning Administrator determines that a Variance is required. Copies of Variance applications shall be provided to the DAA.

- B. FAILURE OF BOARD TO ACT ON VARIANCE.** This Section 9B is intended to implement the provisions of Minnesota Statutes § 360.063, Subd. 6a and § 360.067, Subd. 2. If a person submits a complete application for a Variance by certified mail to both the Local Airport Zoning Administrator and the BOA, and they both fail to grant or deny the Variance within four (4) months after receipt of the application, the Variance shall be deemed to be granted by the BOA, unless the BOA has made its decision within a longer time period authorized in writing by applicant. When the Variance is granted by reason of the failure of the BOA to act on the Variance, the person receiving the Variance shall notify the BOA and the Commissioner, in writing by certified mail, that the Variance has been granted. The applicant shall include a copy of the original Permit and Variance applications with the notice. The Variance shall be effective sixty (60) days after this notice is received by the Commissioner subject to any action taken by the Commissioner pursuant to Minnesota Statutes Section 360.063, Subdivision 6(a).
- C. VARIANCE STANDARDS.** The provisions of Minnesota Statutes § 360.067, Subd. 2 shall be applicable to an application for a Variance. Variances shall only be granted where it is duly found by the BOA that a literal application or enforcement of the regulations would result in practical difficulty, or undue hardship, and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the applicable Local Airport Zoning Ordinance provided any Variance so allowed may be subject to any reasonable conditions that the JAZB or Commissioner may deem necessary to effectuate the purpose of the applicable Local Airport Zoning Ordinance.

SECTION 10: HAZARD MARKING AND LIGHTING

The Local Airport Zoning Administrator or the BOA may condition any Permit or Variance granted so as to require the owner of the Structure or tree or use in question at their own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an Airport Hazards.

SECTION 11: LOCAL AIRPORT ZONING ADMINISTRATOR

It shall be the duty of the Local Airport Zoning Administrator to enforce the regulations prescribed by the applicable Local Airport Zoning Ordinance. Regulations prescribed by the applicable Local Airport Zoning Ordinance for which a Permit is not required to be obtained under the Local Airport Zoning Ordinance shall be enforced and administered as determined by the Local Airport Zoning Administrator. Permit applications shall be made to the Local Airport Zoning Administrator for that jurisdiction. Copies of Permit applications shall be provided to the DAA. Permit applications shall be promptly considered and granted or denied pursuant to the regulations by the applicable Local Airport Zoning Ordinance. Variance applications shall

be made to both the Local Airport Zoning Administrator for that Jurisdiction and the BOA. Copies of Variance applications shall be provided to the DAA.

SECTION 12: BOARD OF ADJUSTMENT FOR THE DULUTH INTERNATIONAL AIRPORT JOINT ZONING BOARD

- A. Establishment: The Board of Adjustment (“BOA”) shall consist of five members, one member each appointed by:
1. Canosia Township
 2. City of Duluth;
 3. City of Hermantown;
 4. City of Rice Lake; and
 5. Duluth Airport Authority.

Each member shall serve for a term of three years and until their successor is duly appointed and qualified. In the event of a vacancy, the vacancy for the unexpired term shall be filled in the same manner as the appointment was originally made. BOA members may be removed by the Entity which appointed such member at any time, with or without cause. JAZB members may also serve on the BOA.

- B. Powers: The BOA shall have and exercise the following powers:

- (1) to hear and decide appeals from any order, requirement, decision, or determination made by the Local Airport Zoning Administrator in the enforcement of the Local Airport Zoning Ordinance;
- (2) to hear and decide any special exceptions to the terms of the Local Airport Zoning Ordinance upon which the BOA may be required to pass under such Local Airport Zoning Ordinance; and
- (3) to hear and decide Variances.

- C. Majority Vote: The concurring vote of a majority of the members of the BOA shall be sufficient for any action or any order, requirement, decision, or determination of the Local Airport Zoning Administrator, or to make a decision on any matter upon which it is required to pass under the Local Airport Zoning Ordinance or to make a decision on a Variance.

- D. Rules and Procedures: The BOA shall adopt rules in accordance with the provisions of this Ordinance. Upon their appointment the BOA members shall select a chair to act at the pleasure of the BOA. Meetings of the BOA shall be held at the call of the chair and at such other times as the BOA may determine. The chair, or if absent, the acting chair, may administer oaths and compel the attendance of witnesses. All hearings of the BOA shall be public. The BOA shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the BOA and shall be a public record.

SECTION 13: APPEALS

- A. Who May Appeal:

Any Person directly affected by any decision of the Local Airport Zoning Administrator in connection with the administration of a Local Airport Zoning Ordinance may appeal that decision to the BOA. Such appeals may also be made by any governing body of the Entities.

B. Procedure:

All appeals hereunder must be commenced in writing within 10 business days of the issuance in writing of the decision by the Local Airport Zoning Administrator, by filing with the Local Airport Zoning Administrator and the BOA a notice of appeal specifying the grounds thereof and the applicable appeal filing and hearing fee set by the BOA. The Local Airport Zoning Administrator shall forthwith transmit to the BOA all data constituting the record upon which the action appealed from was taken. Copies of the data shall also be provided to the DAA.

C. Stay of Proceedings:

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Local Airport Zoning Administrator certifies to the BOA, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate finds that a stay would, in their opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the BOA on written notice to the Local Airport Zoning Administrator and on due cause shown.

D. Hearing:

The BOA shall fix a time for hearing appeals, and then give public notice to the Entities and the DAA, and written notice by mail to the appellant. At the hearing, any party may appear in person or by agent or by attorney.

E. Decisions:

The BOA may, in conformity with the provisions of this ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination, in writing with detailed findings, as may be appropriate under the circumstances, and to that end shall have all the powers of an Local Airport Zoning Administrator.

SECTION 14: JUDICIAL REVIEW

All decisions of the BOA are final. Any party aggrieved by a decision of the BOA may appeal as authorized by Minnesota law provided that such appeal is made within thirty (30) days of the date of the decision of the BOA.

SECTION 15: PENALTIES

- A. **CRIMINAL.** Every person who shall construct, establish, substantially change, alter or repair any existing structure or use, or permit the growth of any tree without having complied with the provision of this Ordinance or who, having been granted a Permit or Variance under the provisions of this Ordinance, shall construct, establish, substantially change or substantially alter or repair any existing growth or

structure or permit the growth of any tree, except as permitted by such Permit or Variance, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 or imprisonment for not more than 90 days or by both. Each day a violation continues to exist shall constitute a separate offense.

- B. CIVIL. In addition, a Local Airport Zoning Administrator or the DAA may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of the Local Airport Zoning Ordinance, or of any order or ruling made in connection with their administration or enforcement of this Ordinance, and the court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case.

SECTION 16: EXEMPTIONS – LAND USED FOR AERONAUTICAL PURPOSES

The restrictions of this Ordinance or any Local Airport Zoning Ordinance shall not control the use of land or the height of structures on land owned by the City of Duluth, the State of Minnesota, the Duluth Airport Authority, or the United States of America and used by the Duluth Airport Authority exclusively for aeronautical purposes.

SECTION 17: CONFLICTS

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area including but not limited to the Local Airport Zoning Ordinance, whether the conflict be with respect to the height of Structures or trees, the use of land, or any other matter, the more stringent limitation or regulation shall govern and prevail.

SECTION 18: SEVERABILITY

In any case in which the provisions of this Ordinance, although generally reasonable, are held by a court to interfere with the use or enjoyment of a particular Structure or parcel of land to such an extent, or to be so onerous in their application to such a Structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the United States or State of Minnesota Constitutions, such holding shall not affect the application of this Ordinance as to other structures and parcels of land, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 19: ADMINISTRATION

- A. Meetings and hearings of the JAZB and BOA shall be held at the Duluth International Airport.
- B. JAZB and BOA shall be supported administratively by the staff of the Duluth Airport Authority and Duluth City Attorney's Office.
- C. The BOA shall be supported by the staff and legal counsel provided by the Entity in whose jurisdiction the property affected by the Variance is located with respect to the requested Variance.
- D. The BOA shall be supported administratively by the staff of the Duluth Airport Authority and legal counsel provided by the Duluth Airport Authority in connection with any judicial review of any actions of the BOA pursuant to Section 14 hereof.

E. The DAA shall provide reasonable technical advice and assistance to Local Zoning Administrators with respect to the administration and enforcement of a Local Zoning Ordinance upon request by a Local Zoning Administrator.

SECTION 20: LOCAL AIRPORT ZONING ORDINANCE

Each of the Entities shall consider the adoption of amendments to its comprehensive plan and thereafter amendments to the zoning for its jurisdiction that incorporate the applicable provisions of this Ordinance. Any such amendments to Entities' zoning shall become effective only after this Ordinance has been approved by the Commissioner.

SECTION 21: EFFECTIVE DATE

This Ordinance shall take effect upon recordation in the St. Louis County Recorder's Office, which shall occur after approval of the Ordinance by the Commissioner. Copies thereof shall be filed with the State of Minnesota Commissioner of Transportation, Division of Aeronautics, and the Entities.

Passed and adopted by the Duluth International Joint Airport Zoning Board ("JAZB") on October 6, 2021 after public hearing by the JAZB, and after approval by the Commissioner on September 24, 2021.

DULUTH INTERNATIONAL AIRPORT JOINT ZONING BOARD

Kevin Connick
JAZB Chairperson

ATTEST:

Mary Ann Wittkop
JAZB Secretary

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this 6th day of October, 2021 by Kevin Connick and Mary Ann Wittkop, the Chairperson and Secretary of the Duluth International Airport Joint Airport Zoning Board.

Notary's Signature

EXHIBIT A—SAFETY ZONE LEGAL DESCRIPTIONS**Safety Zone 1 of East End of Runway 9-27**

That part of Section 6, Township 50, Range 14, St Louis County, Minnesota, described as follows:

Commencing at the northwest corner of the Southwest Quarter of said Section 6; thence on an assumed bearing of South 00 degrees 49 minutes 13 seconds East, along the west line of said Southwest Quarter, a distance of 935.43 feet to the intersection with the easterly extension of the centerline of Runway 9-27; thence South 88 degrees 23 minutes 44 seconds East, along last described easterly extension, a distance of 204.53 feet to the east end of the proposed runway 9-27; thence continuing South 88 degrees 23 minutes 44 seconds East, along last described easterly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to the actual point of beginning of Zone 1; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 83 degrees 04 minutes 25 seconds East a distance of 4180.09 feet to the intersection with the north line of the Northeast Quarter of the Southeast Quarter of said Section 6; thence North 89 degrees 17 minutes 03 seconds East, along last described north line, a distance of 705.98 feet to the westerly right of way line of Rice Lake Road; thence southerly, along last described right of way line, a distance of 2280.58 feet to the east line of the North Half of the South Half of the Southeast Quarter of the Southeast Quarter of said Section 6; thence South 01 degree 03 minutes 54 seconds East, along last described east line, a distance of 39.99 feet to the south line of said North Half of the South Half of the Southeast Quarter of the Southeast Quarter; thence South 89 degrees 00 minutes 30 seconds West, along last described south line, a distance of 457.54 feet to the intersection with a line bearing South 79 degrees 51 minutes 54 seconds East from said point of beginning; thence North 79 degrees 51 minutes 54 seconds West a distance of 4590.59 feet to said point of beginning.

Safety Zone 2 of East End of Runway 9-27

That part of Sections 5, 6, and 8, Township 50, Range 14, St Louis County, Minnesota, described as follows:

Commencing at the northwest corner of the Southwest Quarter of said Section 6; thence on an assumed bearing of South 00 degrees 49 minutes 13 seconds East, along the west line of said Southwest Quarter, a distance of 935.43 feet to the intersection with the easterly extension of the centerline of Runway 9-27; thence South 88 degrees 23 minutes 44 seconds East, along last described easterly extension, a distance of 204.53 feet to the east end of the proposed runway 9-27; thence continuing South 88 degrees 23 minutes 44 seconds East, along last described easterly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 83 degrees 04 minutes 25 seconds East a distance of 4180.09 feet to a point on the north line of the Northeast Quarter of the Southeast Quarter of said Section 6 said point being the actual point of beginning of Zone 2; thence North 89 degrees 17 minutes 03 seconds East, along last

described north line, a distance of 705.98 feet to the westerly right of way line of Rice Lake Road; thence southerly, along last described right of way line, a distance of 2280.58 feet to the east line of the North Half of the South Half of the Southeast Quarter of the Southeast Quarter of said Section 6; thence South 01 degree 03 minutes 54 seconds East, along last described east line, a distance of 39.99 feet to the south line of said North Half of the South Half of the Southeast Quarter of the Southeast Quarter; thence South 89 degrees 00 minutes 30 seconds West, along last described south line, a distance of 457.54 feet to the intersection with a line bearing South 79 degrees 51 minutes 54 seconds East from said Point "A"; thence South 79 degrees 51 minutes 54 seconds East a distance of 4368.29 feet; thence North 00 degrees 07 minutes 11 seconds West a distance of 3643.14 feet to the intersection with a line bearing North 83 degrees 04 minutes 25 seconds East from said point of beginning; thence South 83 degrees 04 minutes 25 seconds West a distance of 4667.96 feet to said point of beginning.

Safety Zone 1 of North End of Runway 3-21

That part of Section 31, Township 51, Range 14, St Louis County, Minnesota, described as follows:

Commencing at the southwest corner of the Southwest Quarter of said Section 31; thence on an assumed bearing of North 89 degrees 22 minutes 07 seconds East, along the south line of said Southwest Quarter, a distance of 56.31 feet to the intersection with the northeasterly extension of the centerline of Runway 3-21; thence North 30 degrees 52 minutes 18 seconds East, along last described northeasterly extension, a distance of 1458.40 feet to the end of the proposed extension of Runway 3-21; thence continuing North 30 degrees 52 minutes 18 seconds East, along last described northeasterly extension, a distance of 200.00 feet; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to the actual point of beginning of Zone 1; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence North 22 degrees 20 minutes 27 seconds East a distance of 3933.06 feet to the intersection with the north line of the Northeast Quarter of the Northwest Quarter of said Section 31; thence North 89 degrees 06 minutes 56 seconds East, along last described north line, a distance of 470.64 feet to the west line of the East 200.00 feet of said Northeast Quarter of the Northwest Quarter; thence South 00 degrees 40 minutes 03 seconds East, along last described west line, a distance of 1323.05 feet to the south line of said Northeast Quarter of the Northwest Quarter; thence North 89 degrees 08 minutes 06 seconds East, along last described south line, a distance of 200.00 feet to the southeast corner of said Northeast Quarter of the Northwest Quarter; thence North 89 degrees 08 minutes 19 seconds East, along the south line of the Northwest Quarter of the Northeast Quarter of said Section 31, a distance of 990.90 feet to the west line of the East Half of the East Half of said Northwest Quarter of the Northeast Quarter; thence North 00 degrees 40 minutes 13 seconds West, along last described west line, a distance of 1323.39 feet to the north line of said Northeast Quarter of Section 31; thence North 89 degrees 07 minutes 22 seconds East, along last described north line, a distance of 990.84 feet to the east line of the West Half of the Northeast Quarter of the Northeast Quarter of said Section 31; thence South 00 degrees 40 minutes 22 seconds East, along last described east line, a distance of 185.61 feet to the intersection with a line bearing North 39 degrees 24 minutes 09 seconds East from said point

of beginning; thence South 39 degrees 24 minutes 09 seconds West a distance of 5184.44 feet to said point of beginning.

Safety Zone 2.5 of North End of Runway 3-21

The Southeast Quarter of the Southwest Quarter and the Southwest Quarter of the Southeast Quarter, Section 30 and the West Three Quarters of the Northwest Quarter of the Northeast Quarter and the East 200.00 feet of the Northeast Quarter of the Northwest Quarter, Section 31, all located in Township 51, Range 14, St. Louis County, Minnesota.

Safety Zone 1 of West End of Runway 9-27

That part of Sections 3 and 4, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Southeast Quarter of said Section 3; thence on an assumed bearing of South 00 degrees 17 minutes 07 seconds East, along the east line of said Southeast Quarter, a distance of 523.82 feet to the intersection with the westerly extension of the centerline of Runway 9-27; thence North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 817.84 feet to the end of the proposed extension of Runway 9-27; thence continuing North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to the actual point of beginning of Zone 1; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 79 degrees 51 minutes 54 seconds West a distance of 5093.17 feet to the intersection with the south line of the North Half of the North Half of the Southeast Quarter of the Northeast Quarter of said Section 4; thence South 89 degrees 17 minutes 28 seconds West, along last described south line, a distance of 612.03 feet to the west line of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 29 minutes 37 seconds East, along last described west line, a distance of 986.08 feet to the southwest corner of said Southeast Quarter of the Northeast Quarter; thence North 89 degrees 19 minutes 12 seconds East, along the south line of said Southeast Quarter of the Northeast Quarter, a distance of 1314.17 feet to the southeast corner of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 11 minutes 17 seconds West, along the east line of the Southeast Quarter of said Section 4, a distance of 1437.77 feet to the intersection with a line bearing South 83 degrees 04 minutes 25 seconds West from said point of beginning; thence North 83 degrees 04 minutes 25 seconds East a distance of 4311.30 feet to said point of beginning.

Safety Zone 2 of West End of Runway 9-27

That part of Section 4, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Southeast Quarter of Section 3 of said Township 50; thence on an assumed bearing of South 00 degrees 17 minutes 07 seconds East, along the east line of said Southeast Quarter, a distance of 523.82 feet to the intersection with the westerly extension of the centerline of Runway 9-27; thence North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 817.84 feet to the end

of the proposed extension of Runway 9-27; thence continuing North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 79 degrees 51 minutes 54 seconds West a distance of 5093.17 feet to a point on the south line of the North Half of the North Half of the Southeast Quarter of the Northeast Quarter of said Section 4 said point being the actual point of beginning of Zone 2; thence South 89 degrees 17 minutes 28 seconds West, along last described south line, a distance of 612.03 feet to the west line of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 29 minutes 37 seconds East, along last described west line, a distance of 986.08 feet to the southwest corner of said Southeast Quarter of the Northeast Quarter; thence North 89 degrees 19 minutes 12 seconds East, along the south line of said Southeast Quarter of the Northeast Quarter, a distance of 1314.17 feet to the southeast corner of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 11 minutes 17 seconds West, along the east line of the Southeast Quarter of said Section 4, a distance of 1325.00 feet to the north line of the Southeast Quarter of the Southeast Quarter of said Section 4; thence South 89 degrees 14 minutes 37 seconds West, along last said north line, a distance of 1304.68 feet to the northwest corner of said Southeast Quarter of the Southeast Quarter; thence South 00 degrees 13 minutes 11 seconds East, along the west line of said Southeast Quarter of the Southeast Quarter, a distance of 253.87 feet to the intersection with a line bearing South 83 degrees 04 minutes 25 seconds West from said Point "A"; thence South 83 degrees 04 minutes 25 seconds West a distance of 3932.53 feet; thence North 00 degrees 07 minutes 11 seconds West a distance of 3854.41 feet to the intersection with a line bearing North 79 degrees 51 minutes 54 seconds West from said point of beginning; thence South 79 degrees 51 minutes 54 seconds East a distance of 4576.98 feet to said point of beginning.

Safety Zone 1 of South End of Runway 3-21

That part of Sections 11 and 12, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Northwest Quarter of said Section 12; thence on an assumed bearing of South 89 degrees 22 minutes 46 seconds West, along the north line of said Northwest Quarter, a distance of 548.52 feet to the intersection with the southwesterly extension of the centerline of Runway 3-21; thence South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 349.89 feet to the end of proposed runway 3-21; thence continuing South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 200.00; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to the actual point of beginning of Zone 1; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence South 37 degrees 59 minutes 48 seconds West a distance of 3104.55 feet to the intersection with the northeasterly right of way line of Miller Trunk Highway; thence South 53 degrees 03 minutes 51 seconds East, along last said northeasterly right of way line, a distance of 739.20 feet to the east line of the Southeast Quarter of said Section 11; thence North 00 degrees 34 minutes 00 seconds West, along last described east line, a distance of

347.40 feet to the intersection with the northwesterly extension of the southwesterly line of Lot 4 of the recorded plat of "ANDERSON'S ACRE TRACTS" on file and of record in the office of the St Louis County Recorder; thence South 54 degrees 08 minutes 29 seconds East, along last described northwesterly extension and said southwesterly line of Lot 4 and the southeasterly extension of said southwesterly line of Lot 4, a distance of 1201.00 feet to the intersection with a line bearing South 23 degrees 51 minutes 10 seconds West from said point of beginning; thence North 23 degrees 51 minutes 10 seconds East a distance of 2989.06 feet to said point of beginning.

Safety Zone 2.5 of South End of Runway 3-21

That part of Sections 11, 12 and 13, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Northwest Quarter of said Section 12; thence on an assumed bearing of South 89 degrees 22 minutes 46 seconds West, along the north line of said Northwest Quarter, a distance of 548.52 feet to the intersection with the southwesterly extension of the centerline of Runway 3-21; thence South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 349.89 feet to the end of proposed runway 3-21; thence continuing South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 200.00; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence South 37 degrees 59 minutes 48 seconds West a distance of 3104.55 feet to a point on the northeasterly right of way line of Miller Trunk Highway said point being the actual point of beginning of Zone 2.5; thence South 53 degrees 03 minutes 51 seconds East, along last said northeasterly right of way line, a distance of 739.20 feet to the east line of the Southeast Quarter of said Section 11; thence North 00 degrees 34 minutes 00 seconds West, along last described east line, a distance of 347.40 feet to the intersection with the northwesterly extension of the southwesterly line of Lot 4 of the recorded plat of "ANDERSON'S ACRE TRACTS" on file and of record in the office of the St Louis County Recorder; thence South 54 degrees 08 minutes 29 seconds East, along last described northwesterly extension and said southwesterly line of Lot 4 and the southeasterly extension of said southwesterly line of Lot 4, a distance of 1201.00 feet to the intersection with a line bearing South 23 degrees 51 minutes 10 seconds West from said Point "A"; thence South 23 degrees 51 minutes 10 seconds West a distance of 2068.80 feet; thence North 55 degrees 45 minutes 40 seconds West a distance of 2232.99 feet to the intersection with a line bearing South 37 degrees 59 minutes 48 seconds West from said point of beginning; thence North 37 degrees 59 minutes 48 seconds East a distance of 1822.30 feet to said point of beginning.

EXHIBIT B – AIRPORT ZONING MAPS

Abandoned Structure – a Non-Conforming Structure that has not been legally occupied or used for any commercial or residential purpose for at least one consecutive year as determined by the Local Airport Zoning Administrator.

Abandoned Use – a Non-Conforming Use that has ceased to have been actively conducted for at least one (1) consecutive year as determined by the Local Airport Zoning Administrator.

Agricultural Uses - land used primarily for the production of crops or livestock including irrigated meadows, irrigated and dry pasture, irrigation ditches, stock drive routes, lands used for barns, corrals and storage of crops or agricultural products, but not including lands used primarily for the production of commercial timber; or

Aircraft - any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, but excluding parachutes. (Minn. Stat. 360.013)

Aircraft Accident -an occurrence incident to flight in which, because of the operation of an aircraft, a person (occupant or non-occupant) receives fatal or serious injury or an aircraft receives substantial damage. Except as provided below, substantial damage means damage or structural failure that adversely affects the structural strength, performance, or flight characteristics of the aircraft, and which would normally require major repair or replacement of the affected component. Engine failure, damage limited to an engine, bent fairings or cowling, dented skin, small puncture holes in the skin or fabric, ground damage to rotor or propeller blades, damage to landing gear, wheels, tires, flaps, engine accessories, brakes, or wingtips are not considered substantial damage.

Airport- the Duluth International Airport lands located in Sections 1, 2, 3, 11, 12, Township 50, Range 15; Section 6, Township 50, Range 14; and Section 31, Township 51, Range 14 that is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas that are used, or intended for use, for airport buildings or other airport facilities or rights of way, together with all airport buildings and facilities located thereon.

Airport and related facilities (UDC). An area of land that is used or intended for the landing and takeoff of aircraft, and includes its buildings and facilities, if any. Accessory uses may include but are not limited to: car rental, aircraft servicing, fueling, or leasing, private aviation clubs or associations, and hotels.

Airport Boundary - those lands including the property owned by the City of Duluth, by the Government of the United States, and by the State of Minnesota and their respective subdivisions which are used for aeronautical purposes and are contiguous with the runway and building area facilities. The airport boundaries are illustrated in the Airport Property Map of the approved set of Airport Layout Plans on file in the offices of the Duluth Airport Authority.

Airport boundary (UDC). Those lands including the property owned by the city, state, and the United States, and their respective political subdivisions, that are used for aeronautical purposes and are contiguous with the runway and building area facilities. The Duluth International Airport boundaries are illustrated on Sheet 3, airport property map, of the approved set of airport layout plans on file in the offices of the Duluth Airport Authority. The Sky Harbor Municipal Airport boundaries are illustrated on Exhibit 50-18.2-2.

Airport Elevation -the established elevation of the highest point on the usable landing area which elevation is established to be 1,428 feet above mean sea level.

Airport elevation (UDC). The established elevation of the highest point on the usable landing area, which elevation is established to be 1,428 feet above mean sea level for Duluth International Airport and 610 feet above mean sea level for Sky Harbor Municipal Airport.

Airport Hazard -any structure, object of natural growth, or use of land, which obstructs the air space required for the flight of aircraft in landing or taking off at any airport or restricted landing area or is otherwise hazardous to such landing or taking off. (Minn. Stat. 360.013)

Airport hazard (UDC). Any structure, tree, or use of land that obstructs the air space required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land that is hazardous to persons or property because of its proximity to the airport.

Airport Safety Zone - an area subject to land use zoning controls adopted under Minnesota Statutes sections 360.061 to 360.074 if the zoning controls regulate (1) the size or location of buildings, or (2) the density of population. (Minn. Stat. 394.22, Subd. 1(a))

Airport Zoning Map- the Duluth International Airport Zoning Map prepared by RS&H, and adopted and attached hereto as Exhibit C of the Duluth International Airport Zoning Ordinance.

Airspace Zones – the Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone, whose locations and dimensions are indicated on the Airport Zoning Map

Airspace Surface or Imaginary Surface - The imaginary areas in space and on the ground that are established by this Ordinance and/or the FAA in relation to the Duluth International Airport and its runways as the basis for regulating obstructions to air travel.

Approach Zone - All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of the runway. The inner edge of the approach surface is at the same width and elevations as, and coincides with, the end of the primary surface; as illustrated in Airport Zoning Map.

Board of Adjustment – Board of Adjustment for the Duluth International Airport Joint Airport Zoning Board.

Building -Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind, and when separated by party or division walls without openings, each portion of such building so separated shall be deemed a separate building.

Building (UDC). Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind, and when separated by party or division walls without openings, each portion of such building so separated shall be deemed a separate building.

Commissioner - the commissioner of transportation of the State of Minnesota. (Minn. Stat. 360.013)

Conical Zone - all that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of approximately 4,000 feet from the end of Runway 9-27 and Runway 3-21 as measured radially outward from the periphery of the horizontal surface; whose location and dimensions are indicated on the Airport Zoning Map

Department - the Minnesota Department of Transportation. (Minn. Stat. 360.013)

Dwelling - any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

Dwelling (UDC). Any building or portion of a building that is designed for or used for residential purposes and has a principal entrance facing the front lot line and provides basic requirements for living, sleeping, cooking, eating, and sanitation, and is constructed on compliant and permanent footings or foundation, with permanent connections to public sanitary sewer and water. No recreational vehicle, or structure on a chassis, shall constitute a dwelling, except as allowed and provided for in manufactured home parks or recreational vehicle parks.

Duluth Airport Authority (“DAA”) – A political subdivision of the State of Minnesota established pursuant to Minnesota Laws of 1969, Chapter 577 for the purpose of controlling and managing City of Duluth airport facilities. DAA has the exclusive power to receive, control, and order the expenditure of any and all moneys and funds in the control and management of the City of Duluth airport facilities.

Duluth International Airport Joint Airport Zoning Board (“JAZB”) – The joint airport zoning board established pursuant to the authority conferred by Minnesota Statutes Sections 360.061 - 360.074 comprised of appointed representatives of the St. Louis County, City of Duluth, City of Hermantown, Canosia Township, and the City of Rice Lake.

Entities or, individually, Entity – mean the Cities of Hermantown, Duluth, Rice Lake, Canosia Township and County of St. Louis, Minnesota.

Federal Aviation Administration (FAA) – A federal agency charged with regulating air commerce to promote its safety and development; encourage and develop civil aviation, air traffic control, and air navigation; and promoting the development of a national system of airports.

FAA (UDC). The federal aviation administration or its duly designated and authorized successor agency.

Federal Aviation Regulations (FAR) – Regulations established and administered by the FAA that govern civil aviation and aviation-related activities.

FAR Part 36 – Regulation establishing noise standards for the civil aviation fleet.

FAR Part 77 – Objects Affecting Navigable Airspace - Part 77 (a) establishes standards for determining obstructions in navigable airspace; (b) defines the requirements for notice to the

FAA Administrator of certain proposed construction or alteration; (c) provides for aeronautical studies of obstructions to air navigation to determine their effect on the safe and efficient use of airspace; (d) provides for public hearings on the hazardous effect of proposed construction or alteration on air navigation; and (e) provides for establishing antenna farm areas.

Group A Use – means assembly, churches, restaurants, movie theaters, banquet halls, bars, art galleries, casinos, bowling alleys, dance halls, funeral parlors, gymnasiums, indoor pools/tennis courts, lecture halls, museums, arenas, skating rinks, bleachers, grandstands, stadiums as described in the 2018 International Building Code, as may be revised from time to time.

Group E Use – means education use of a building by six or more at any one time for educational purposes through twelfth grade, daycare facilities for more than five children older than two and one-half years old for fewer than twenty-four hours per day as described in the 2018 International Building Code, as may be revised from time to time.

Group I-2 Use – means buildings used for medical care on a twenty-four hour basis for more than five persons who are incapable of self-preservation. Examples include detoxification, foster care, hospital, nursing homes and other supervised living facilities as described in the 2018 International Building Code, as may be revised from time to time.

Group R-1 Use – means residential occupancies containing sleeping units where occupants are primarily transient. Examples include B&Bs with more than six guest rooms, boarding homes with more than ten occupants, and congregate living with more than ten units, and hotels/motels as described in the 2018 International Building Code, as may be revised from time to time.

Hazard to Air Navigation - any object that has a substantial adverse effect upon the safe and efficient use of navigable airspace. Any obstruction to air navigation is presumed to be a hazard to air navigation unless an FAA aeronautical study has determined otherwise.

Height of Building - the vertical distance measured from the highest ground elevation adjoining the front wall of the building to the highest point of the building

Height of building (UDC). The vertical distance at the center of the principal front of a building, measured from the grade on that front to the highest point of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable or of a mean height level between eaves and hip or gambrel roof.

Height of Tower or Structure - the vertical distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightning protection device.

Height of tower or structure (UDC). The vertical distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightning protection device.

Horizontal Surface - all that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation; whose location and dimensions are indicated on the Airport Zoning Map.

Hospital - an institution that is built, staffed, and equipped for the diagnosis of disease; for the medical and surgical treatment of in-patients whether they be sick or injured and for their overnight housing during this process. Hospital services include the care and treatment of non-

ambulatory patients, intensive care units and acute care services. Outpatient surgery and other treatment centers where overnight stays are provided are not hospitals for the purposes of this definition.

Hospital. (UDC) An institution or place where sick or injured in-patients are given medical or surgical care, at either public or private expense, but excluding a nursing home and excluding institutions where persons suffering from permanent types of illness, injury, deformity or deficiency or age are given care and treatment on a prolonged or permanent basis.

Industrial Use - the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities or other wholesale items.

Land - Ground, soil, or earth, including structures on, above, or below the surface.

Landing Area - means the area of the airport used for the landing, taking off or taxiing of aircraft.

Local Airport Zoning Administrator - the person or position designated in the Local Airport Zoning Ordinance to administer and enforce the Local Airport Zoning Ordinance within their political subdivision

Local Airport Zoning Ordinance – means the ordinances as adopted by the City of Hermantown, City of Rice Lake, City of Duluth, Canosia Township, and St. Louis County and codified as a zoning ordinance of that political subdivision.

Material Change in Use – means that there is a change in the purposes for which the circumstances in which a building or property is used.

Material Expansion – means an increase in the floor or building coverage area or volume of an existing building.

Navigable Airspace - airspace at and above the minimum flight altitudes prescribed in the FAR's including airspace needed for safe takeoff and landing (refer to FAR Part 77 and 91).

Non-Conforming Lot - a lot of record created prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

Non-Conforming Structure - any structure constructed, converted or adopted for a use prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

Non-Conforming Use - any use of a structure or land or arrangement of land and structures existing prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

Nonconforming use (UDC). Any building or land lawfully occupied by a use at the time of passage of this Chapter or an amendment to this Chapter that does not conform after the passage of this Chapter or amendment to this Chapter with the use regulations of the district in which it is situated.

Non-Precision Instrument Runway - a runway having an existing or Planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are Planned.

Ordinance- This Duluth International Airport Zoning Ordinance, including all exhibits, appendices, and maps attached hereto.

Obstruction - Any structure, tree, plant or other object of natural growth that penetrates one or more of the applicable Navigable Airspaces, imaginary surfaces, or imaginary zones defined and illustrated in this Ordinance.

Obstruction (UDC). In the context of flood protection, any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or regulatory flood plain that may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Permit- type of written authorization that must be granted by a government or other regulatory body before any activity regulated by the Local Airport Zoning Ordinance can legally occur.

Person - any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof. (Minn. Stat. 360.013)

Planned - as used in this Ordinance refers only to those proposed future airport developments that are so indicated on a planning document having the approval of the Federal Aviation Administration, the Department of Transportation, Division of Aeronautics, and Duluth Airport Authority.

Precision Instrument Approach Zone - all that land which lies directly under an existing or Planned imaginary precision instrument approach surface longitudinally centered on the extended centerline at each end of Precision Instrument Runways 9-27 and 3-21, The inner edge of the precision instrument approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The precision instrument approach surface inclines upward and outward at a slope of 50:1 for a horizontal distance of approximately 10,000 feet expanding uniformly to a width of approximately 4,000 feet, then continues upward and outward for an additional horizontal distance of approximately 40,000 feet at a slope of 40:1 expanding uniformly to an ultimate width of approximately 16,000 feet; whose location and dimensions are indicated on the Airport Zoning Map

Precision Instrument Runway - a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), a Microwave Landing System (MLS), or a Precision Approach Radar (PAR), a Transponder Landing System (TLS), or a satellite-based system capable of operating to the same level of precision guidance provided by the other included systems. Also, a runway for which such a precision instrument approach system is Planned.

Precision instrument runway (UDC). A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR), or a runway for which a precision instrument approach system is planned and is so indicated on an approved planning document.

Primary Zone -All that land which approximately lies directly under an imaginary primary surface longitudinally centered on a runway and extending 200 feet beyond each end of Runways 9-27 and 3-21. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline; whose location and dimensions are indicated on the Airport Zoning Map

Public Assembly Use – A structure or outdoor facility where concentrations of people gather for purposes such as deliberation, education, shopping, business, entertainment, amusement, sporting events, or similar activities, but excluding air shows. “Public assembly use” does not include places where people congregate for relatively short periods of time, such as parking lots and bus stops, or uses approved by the FAA in an adopted airport master plan.

Public, Civic and Institutional Uses - uses of a public, quasi-public, nonprofit, or charitable nature generally providing a local service to the people of the community. Generally, these uses provide the service on-site or have employees at the site on a regular basis. The service is ongoing, not just for special events. This use category includes the following use types:

- a) Community centers or facilities that have membership provisions or are open to the general public to join at any time; and
- b) Facilities for the provision of public services, including governmental offices and public safety and emergency response services, such as police, fire and ambulance services. Such facilities often need to be located in or near the area where the service is provided.

Religious Assembly - a facility or area for people to gather for public worship, religious training or other religious activities including a church, temple, mosque, synagogue, convent, monastery or other structure, together with its accessory structures, including a parsonage or rectory. This use does not include home meetings or other religious activities conducted in a privately occupied residence. Accessory uses may include meeting rooms and childcare provided for persons while they are attending assembly functions.

Religious assembly (UDC). A facility or area for people to gather together for public worship, religious training or other religious activities including a church, temple, mosque, synagogue, convent, monastery or other structure, together with its accessory structures, including a parsonage or rectory. This use does not include home meetings or other religious activities conducted in a privately occupied residence. Accessory uses may include meeting rooms and childcare provided for persons while they are attending assembly functions.

Resource Extraction Use - uses involved in the process of (1) removing or extracting minerals and building stone from naturally occurring veins, deposits, bodies, beds, seams, fields, pools or other concentrations in the earth’s crust, including the preliminary treatment of such ore or building stone; and (2) the extraction, exploration or production of oil or natural gas resources, including oil and gas wells and accessory offices, storage buildings, rig camps and gas transmission lines.

Runway - any existing or Planned paved surface or turf-covered area of the airport that is specifically designated and used or Planned to be used for aircraft landing and takeoff.

Runway. (UDC) Any existing or planned paved surface or turf covered area of the airport that is specifically designated and used or planned to be used for the landing or taking off of aircraft.

Safety Zone – The land use safety zones (Zones 1, 2 and 3) established by this Ordinance further illustrated in the Airport Zoning Map. *See also* Airport Safety Zone.

Site - a parcel or several adjoining parcels of land under common ownership.

Site (UDC). A parcel or several adjoining parcels of land under common ownership. For purposes of the natural resources overlay district, this definition is limited to apply to any parcel of land upon which work requiring a permit under this Chapter is to be performed, and includes any adjacent lands owned by the owner of the subject parcel on the date of application for any permit and any lands adjacent to the subject parcel that were owned by the same person owning the subject parcel as of January 1, 1980.

Slope - an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude. (e.g., slope = 3:1 = 3 feet horizontal to 1 foot vertical).

Slope (UDC). An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude (e.g., slope = 3:1 = 3 feet horizontal to 1 foot vertical).

Structure - Structure. Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground.

Structure (UDC). Anything constructed or erected, the use of which requires a location on the ground, or attached to some thing having a location on the ground. Examples include but are not limited to: backstops for tennis courts, fences or pergolas.

Structural Alteration - Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial changes in the roofs or exterior walls but not including openings in bearing walls as permitted by existing ordinances

Substantial Damage -Damage of any origin sustained by a Non-Conforming Structure where the cost of restoring the structure to its before damaged condition would equal or exceed 60 percent of the assessed market value of the structure as determined by the St. Louis County Assessor before the damage occurred. For flood plain management and flood hazard purposes, substantial damage shall occur when damage of any origin sustained by a structure, where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the assessed market value of the structure as determined by the St Louis County Assessor before the damage occurred.

Substantial damage (UDC). Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 60 percent of the assessed market value of the structure as determined by the city assessor before the damage occurred. For flood plain management and flood hazard purposes, substantial damage shall occur when damage of any origin sustained by a structure, where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the assessed market value of the structure as determined by the city assessor before the damage occurred.

Substantially Damaged Structure – means a Non-Conforming Structure that has sustained Substantial Damage.

Transitional Zone - All that land which lies directly under an imaginary transitional surface extending upward and outward at right angles to the runway centerline and the runway centerline extended at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surface. Transitional surfaces for those portions of the instrument approach surface which project through and beyond the limits of the conical surface, extend a distance of approximately 5,000 feet measured horizontally from the edge of the instrument approach surface and at right angles to the extended instrument runway centerline; whose location and dimensions are indicated on the Airport Zoning Map.

Traverse Ways - roads, railroads, trails, waterways, or any other avenue of surface transportation.

Utility Runway - a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less and which runway is less than 4,900 feet in length.

Utility runway (UDC). **A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.**

Variance – Any modification or variation of application of this Ordinance to a real property structure or use approved in writing by the BOA.

Visual Runway - a runway intended solely for the operation of aircraft using visual approach procedures, with no existing or Planned instrument approach procedures.

Zoning – the partitioning of land parcels in a community by ordinance into zones and the establishment of regulations in the ordinance to govern the land use and the location, height, use and land coverage of buildings within each zone.



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Date: February 1, 2022
 To: Planning Commission
 From: Steven Robertson, Senior Planner
 RE: PL 22-010 New Land Uses and Definitions

Staff are proposing a minor ordinance change to recognize three additional land uses: **1) car wash, 2) auto impound lot, and 3) commercial support services.**

The need for language to allow impound lots was called out by UDC Interpretation 21-002, whereas the need for auto impound lots and commercial business support services was identified over the course of the last year during pre-application and pre-review meetings with various citizens, entrepreneurs, and development groups.

In addition, staff are recommending a slight amendment to the existing definition of **4) hotels**, to clarify that in-person staffing must be on site (to promote guest safety and security, customer reception, and ensure guests and their visitors don't create noise or nuisance issues for adjacent land uses/residents or other guests within the hotel).

Recommendation:

Staff recommends that the Planning Commission hold a public hearing, discuss the proposed land uses and use specific standards, and recommend approval of the UDC updates to the City Council.

NEW USE: CAR WASH, PRIMARY USE

Proposed Definition: A building containing facilities for washing more than one (1) motor vehicle using steam cleaning or other mechanical devices. This definition includes self-service or automated car wash establishments. This definition does not include garages and filling stations where the washing of automobiles is only incidental or accessory to the business.

Proposed Allowable Zone Districts: Permitted in the MU-C and MU-B Districts, Special Use in MU-N District.

Proposed Use Specific Standards:

- All driving and parking surfaces shall be surfaced in a dust free, hard surface material such as concrete or bituminous;
- The vehicle exit door(s) shall be at least twenty (25) feet from the street property line or public sidewalk;
- No displays or storage of merchandise, parts or refuse may be located closer than ten feet from any public right-of-way;

-A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

-The car wash must be at least 50 feet from any property line containing a residential structure, and all outdoor speakers and audio components of a vehicle wash facility located within 150 feet of any residential structure shall be muted daily between the hours of 10:00 p.m. and 6:00 a.m., excluding any residential use or structure on the same property as the filling station or within the same development.

In a mixed use neighborhood (MU-N district), the following additional standards apply:

- (a) Curb cuts to allow for vehicle traffic into and out of the site shall be located a minimum of 50 feet from street intersections, unless a greater or lesser distance is specified by the City Engineer for reasons of traffic or pedestrian safety. The number and width of curb cuts from the public street shall be evaluated to ensure pedestrian safety and to encourage walkability, including evaluation to consider appropriate car entrance locations while allowing for necessary tanker truck turning;
- (b) Vehicle stacking lanes shall be located away from adjacent uses such as residential and outdoor amenity areas to reduce the impacts of noise and pollution caused by stacking vehicles near such uses. Landscaping and fencing shall be used to buffer potential impacts;
- (c) Noise-generating areas, including car wash openings, vacuum stations, garbage storage and stacking lanes, shall be located away from adjacent residential areas and outdoor amenity areas. Potential noise generators shall be buffered with landscaping, berming, or fencing to reduce impacts;
- (d) Site and sign illumination shall be designed to avoid glare/light spillover toward adjacent land uses.

NEW USE: AUTO IMPOUND LOT, PRIMARY USE

Proposed Definition: A facility or area of land devoted principally to the storage of impounded vehicles or recreational vehicles with or without an office on the premises for the release of those types of vehicles.

Proposed Allowable Zone Districts: Permitted in the MU-B, I-G Districts, Special Use in the MU-C

-All driving and parking surfaces shall be surfaced in a dust free, hard surface material such as concrete or bituminous;

-A dense urban screen, such as a screening wall, berm, fence, or row of planting at least six feet tall, with screening material designed to provide 75 percent opacity, must be installed and maintained along all side and rear property lines. The dense urban screen must be continuously maintained during the entire permit period.

-Site illumination shall be designed to avoid glare/light spillover toward adjacent land uses.

-Signage shall be limited to one 40 square foot free standing sign and 20 square feet of non-illuminated wall signage. Signs shall not be located closer than ten feet to the front property line.

NEW USE: COMMERCIAL SUPPORT SERVICES

Proposed Definition: A facility or area of land where commercial services such as cooking and cooking supplies, printing and photocopying, publishing, engraving, and other uses designed to support commercial activities in the vicinity, provided that such services are not listed separately as a permitted of special use in this Chapter.

Proposed Allowable Zone Districts: Permitted in the MU-C and MU-B districts, Special Use in the MU-N district.

Proposed Use Specific Standards: None.

INDUSTRIAL SUPPORT SERVICES

Amend Existing Definition: A facility or area where industrial services such as heating, ventilation, cooking and refrigeration supplies, motion picture production, plumbing supplies, ~~printing and photocopying, publishing, engraving,~~ exposition building or center, and other uses designed to support industrial or heavy commercial activities in the vicinity, provided that such services are not listed separately as a permitted of special use in this Chapter.

HOTEL OR MOTEL

Amend Existing Definition: A building or series of buildings operated as a commercial establishment providing accommodations to the transient traveling public in habitable units for compensation, and including both short-stay and extended stay facilities, and that may offer customarily incidental services. A hotel must have a minimum of five (5) separate habitable units, and must have a reception desk staffed with personnel present at all times on site, during times that accommodations are offered. Hotels and motels may have one (1) manager's dwelling unit, which may be located on any floor.

Comment: as an alternative to staffing present at all times, the definition can be altered to say that staff must be present on site during regular business hours, and available by phone and email at all other times.